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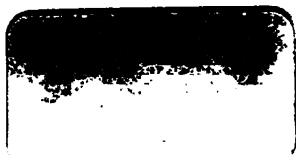
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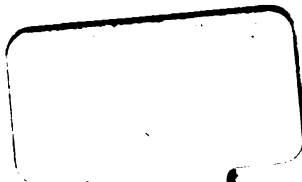
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# THE CHARTER AND ORDINANCES OF THE CITY OF PORTLAND

TOGETHER WITH ACTS OF THE LEGISLATURE  
RELATING TO THE CITY AND MUNICIPAL MATTERS

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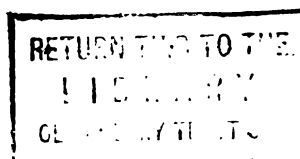
—COLLATED AND REVISED BY—  
**JOHN T. FAGAN, ESQUIRE, OF CUMBERLAND BAR**  
UNDER THE DIRECTION AND SUPERVISION OF A JOINT SPECIAL  
COMMITTEE OF THE CITY COUNCIL CONSISTING OF ALDERMEN  
**ARTHUR K. HUNT, JOS. E. F. CONNOLLY, EDWARD A. SHAW**  
—COUNCILMAN WILLIAM C. EATON—

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Portland, Maine, SMITH & SALE, Publishers and Printers, 1902





*W. L. Garrison, Jr.*

## PREFACE.

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The present volume constitutes the ninth edition of ordinances of Portland. The city charter was adopted May 26, 1832, by authority of an Act of the Legislature approved February 28, 1832. The charter provided "that all the laws and regulations now in force in said town shall be and remain in force until they expire by their own limitation, or be revised or repealed by the city council." In anticipation of the adoption of a city charter, the work of revising the town laws was begun in the early part of May, 1832, and was completed and published as the first compilation of city ordinances January, 1833. It contained but twenty-seven pages.

### FIRST REVISION.

The first revision of the ordinances was authorized by an order passed June 10, 1840. The total number of copies printed was three hundred and the expense was about eighteen hundred dollars. It contained but forty pages.

### SECOND REVISION.

The second revision was authorized by an order passed August 11, 1847. The work was completed and published in April of the following year. It contained forty-eight pages.

### THIRD REVISION.

The third revision was authorized by an order passed April 19, 1855. It contained in addition to the ordinances, the city charter, statutes and special laws applicable to the city, and rules and regulations of the board of mayor and aldermen. The work was completed and published in July, 1856. It contained three hundred and eighty-four pages.

## FOURTH REVISION.

The fourth revision was authorized by an order passed April 1, 1867. The contents were similar to the preceding revision. The work was completed and published in the spring of 1868. It contained four hundred and eighty-eight pages.

## FIFTH REVISION.

The fifth revision was authorized by an order passed March 14, 1881. The contents were similar to the two preceding revisions. The work was completed and published in the early part of 1882. It contained six hundred and ninety-eight pages.

## SIXTH REVISION.

The sixth revision was authorized by an order passed September 8, 1891. It contained the city charter and ordinances only, omitting the statutes and special laws. The work was completed and published in December, 1892. It contained two hundred and five pages.

## SUPPLEMENT TO FIFTH REVISION.

The city council, by order passed May 27, 1896, instructed the city clerk to publish the ordinances passed since the edition of 1882, together with the Acts of the Legislature relating to the city, rules and regulations of the board of mayor and aldermen and board of health. This book was intended as a supplement to the edition of 1882. It contained one hundred and twelve pages.

## SEVENTH REVISION.

The seventh revision (being the present volume), is published by authority of the following order:

CITY OF PORTLAND, }  
IN COMMON COUNCIL, April 1, 1901. }

Ordered, That a committee consisting of two on the part of this board, and such as the board of mayor and aldermen may join, be appointed, whose duty it shall be to cause the ordinances of the city to

be revised, collated and arranged for publication, together with the city charter and such statute laws as are applicable to the affairs of the city when appropriation for that purpose is made.

That said committee have power to employ such assistance as they deem necessary or expedient in preparing said revision.

That said committee shall report to the city council from time to time any changes which it may deem necessary or advisable to have made in the ordinances of the city.

That said committee be instructed to present to the joint committee on estimates an estimate of the cost of such revision.

IN COMMON COUNCIL, }  
April 1, 1901. }

Read twice, passed and sent up for concurrence :

Attest: H. M. BIGELOW, *Clerk.*

IN BOARD OF ALDERMEN, }  
April 1, 1901. }

Read twice and passed in concurrence.

Attest: EDWIN L. DYER, *City Clerk.*

APPROVED, April 9, 1901.

FREDERIC E. BOOTHBY, *Mayor.*

By virtue of the authority granted in this order the mayor appointed Aldermen Arthur K. Hunt and Joseph E. F. Connolly, and the president of the common council appointed Councilmen Edward A. Shaw and William C. Eaton to be members of the committee of revision of ordinances.

At the close of the year 1901 the work had not been completed. The new city council, at a meeting held December 9, 1901, passed an order similar to the order of April 1, 1901, providing for the completion of the work. The same persons were appointed members of the committee of revision.

The general plan resembles the edition of 1881. It contains the town charter, the several city charters, notes on the charter, the special



Acts of the Legislature relating to the city, the general laws of the State which are applicable to the city and to city officers, the rules and regulations of the board of mayor and aldermen, and rules and regulations of the board of health.

Many of the ordinances have been redrafted, some have been omitted and some added. The ordinances for the government of Evergreen Cemetery were redrafted and compiled by the trustees of that cemetery.

It has been found somewhat embarrassing to determine what general laws of the State should be included in this volume. Great care and deliberation have been exercised in their selection; but, nevertheless, some which are of importance may have been omitted. To have included all of the general laws which have some bearing upon local municipal affairs would have made the volume too large for the purposes contemplated in the order.

July 29, 1902.

JOHN T. FAGAN.

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## CHARTERS.





# ORIGINAL CHARTER OF THE TOWN OF PORTLAND.

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Adopted July 4, 1786.

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## AN ACT

FOR ERECTING THAT PART OF THE TOWN OF FALMOUTH,  
IN THE COUNTY OF CUMBERLAND, COMMONLY  
CALLED "THE NECK," INTO A TOWN  
BY THE NAME OF PORTLAND.

*Be it enacted by the Senate and House of Representatives in General  
Court assembled, and by the authority of the same,—*

That that part of the town of Falmouth aforesaid and the inhabitants thereof, and their estates included within the following bounds, viz.: Beginning at the middle of the Creek that runs into Round Marsh, so called; thence northeast to Back Cove Creek; thence down the middle of that Creek to Back Cove; thence across said Cove to Sandy Point; thence round by Casco Bay to Fore River; thence up Fore River to the first bounds, together with all the islands that now belong to the First Parish in said Falmouth, be and they hereby are incorporated into a town by the name of "Portland," and are hereby invested with all the powers, privileges and immunities that towns within this commonwealth do, or ought by law to have and enjoy.

And be it further enacted by the authority aforesaid, That the several collectors of the said town of Falmouth are hereby authorized to collect and pay the taxes to them already committed respectively, agreeably to their several warrants, anything in this act to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, that the Treasurer of the town of Falmouth shall make a fair settlement and adjustment of his accounts as they stood before the passing of this act; and

if a balance shall remain in his hands the inhabitants of the town of Portland shall receive their just and due proportion thereof; and if upon such settlement the town of Falmouth shall be in arrears, the inhabitants of the town of Portland shall pay their just and due proportion thereof as hereafter in this act is settled.

And be it further enacted that the land belonging to the town of Falmouth before the passing of this act, and the town stock of powder, shall be set off and divided, four-ninths to the town of Portland and the other five-ninths to the town of Falmouth; and the town of Portland shall pay four-ninths of the taxes, which have been heretofore imposed by the General Court upon the town of Falmouth, and the Assessors of the said towns respectively are hereby empowered and directed to assess all taxes which were due from the said town of Falmouth, before the passing of this act, to the county or Commonwealth, agreeably to the proportion aforesaid; and the towns aforesaid shall be charged in the same proportion in all future taxes until the General Court shall otherwise determine; and the public landings shall be in common to the inhabitants of both towns.

And be it further enacted by the authority aforesaid that the said town of Portland shall be the shire town of said county; and that the Supreme Judicial Courts, and Courts of Common Pleas and General Sessions of the Peace, by law appointed to be holden at Falmouth, shall in future be holden in said town of Portland on the same days respectively in which they were by law required to be holden at Falmouth aforesaid, any law to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, that the poor now maintained by the town of Falmouth, shall be supported by the two towns in the proportion aforesaid; and if any person or persons heretofore belonging to the town of Falmouth aforesaid, and who have removed from thence shall be returned thither again and become a public charge the same shall be paid by the two towns aforesaid in proportion to the tax laid on them severally from time to time.

And be it further enacted by the authority aforesaid, that nothing in this act shall in any wise affect or alter any of the bounds of the several parishes within the town of Falmouth, but the same shall be, and remain as heretofore by law established, anything in this act to the contrary notwithstanding.

And be it further enacted that the Inhabitants of the Town of Portland shall from time to time amend and repair Pride's Bridge on Presumpscot River and the great Bridge on Fore River, so called,

although the same be not included within the limits of Portland aforesaid.

And be it further enacted, that a certain tract of land within the limits of the Town of Portland, and containing about one hundred and eighty acres belonging to Samuel Deane, Joshua Freeman and Elizabeth Wise and which descended to them from Moses Pearson late of Falmouth aforesaid, Esquire, deceased, be, and the same is hereby annexed to the Town of Portland and shall be considered as part thereof; and the lands granted to the first Parish in said Falmouth for the support of the ministry there, are hereby annexed to said Town of Portland and shall be considered as part thereof and shall enjoy the immunities that the other ministerial lands in said Falmouth have and enjoy the same without the limits of the Town of Portland notwithstanding, so long as they continue ministerial lands, and no longer.

And be it further enacted, that Enoch Freeman, Esqr. be and he is directed to issue his warrant to some principal inhabitant of Portland requiring him to notify and warn the inhabitants of said Town of Portland, qualified by law, to vote in town affairs, to meet at such time and place as therein shall be set forth to choose such officers as any of the towns within this Commonwealth by law have a right to elect; and the officers so chosen shall take the respective oaths by law required to be by them taken.

Provided nevertheless that nothing in this act shall be construed to affect any grants of land made to the first Parish in Falmouth aforesaid but such lands shall be the estate of the society which before the passing of this act was called the first Parish in Falmouth; anything in this act to the contrary notwithstanding.

In the House of Representatives, July 1st, 1786.

This bill having had three several readings passed to be enacted.

ARTEMUS WARD, *Speaker.*

In Senate, July 4, 1786.

This bill having had two several readings passed to be enacted.

SAMUEL PHILLIPS, JR., *President.*

By the Governor approved,

JAMES BOWDOIN.

# ORIGINAL CHARTER OF THE CITY OF PORTLAND.

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Chapter 248 of Special Acts of the Legislature approved  
February 28, 1832.

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## AN ACT TO INCORPORATE THE CITY OF PORTLAND.

SECTION 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That the inhabitants of the town of Portland shall continue to be a body politic and corporate, by the name of the "City of Portland," and as such shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties and obligations now appertaining to, or incumbent upon said town as a municipal corporation, or appertaining to, or incumbent upon the inhabitants or selectmen thereof; and may ordain and publish such acts, laws and regulations, not inconsistent with the constitution and laws of this State, as shall be needful to the good order of said body politic; and impose fines and penalties for the breach thereof not exceeding fifty dollars, for any one offence.

SECTION 2. Be it further enacted, That the administration of all the fiscal, prudential and municipal affairs of said City, with the government thereof, shall be vested in one principal Magistrate, to be styled the Mayor, and one Council of seven, to be denominated the Board of Aldermen, and one Council of twenty-one, to be denominated the Common Council, all of whom shall be inhabitants of said City; which boards shall constitute, and be called, the City Council; and shall be sworn or affirmed to the faithful performance of the duties of their respective offices.

SECTION 3. Be it further enacted, That the Mayor of said City shall be the chief executive Magistrate thereof. It shall be his duty to be vigilant and active in causing the laws and regulations of the City to be executed and enforced, to exercise a general supervision over the

conduct of all subordinate officers, and to cause their violations or neglect of duty to be punished. He may call special meetings of the Board of Aldermen and Common Council, or either of them, when in his opinion the interest of the City requires it, by a notice in two or more of the papers printed in the City, or by causing a summons or notification to be left at the usual dwelling place of each member of the board or boards to be convened. He shall from time to time communicate to both of them such information, and recommend such measures, as the business and interest of the City may in his opinion require. He shall preside in the Board of Aldermen, and in joint meetings of the two boards, but shall have only a casting vote. He shall be compensated for his services by a salary to be fixed by the City Council, payable at stated periods, and shall receive therefor no other compensation; which compensation, however, shall not be increased nor diminished during his continuance in office. Provided, however, that the City Council shall have power to appoint the Mayor Commissioner of Streets, and allow him a suitable compensation for such service; but the Aldermen and Common Councilmen shall not be entitled to receive any salary or other compensation for their services.

SECTION 4. Be it further enacted, That the executive powers of said City generally, and the administration of Police, with all the powers of the Selectmen of the town of Portland, except as provided in the thirteenth section of this Act, shall be vested in the Mayor and Aldermen, as fully as if the same had been herein particularly enumerated. All other powers now vested in the inhabitants of said town, and all powers granted by this Act, shall be vested in the Mayor and Aldermen and Common Council of said City, to be exercised by concurrent vote, each board to have a negative upon the other. But all elections of officers by the City Council, shall be by joint ballot of the two boards in convention. The City Council shall, annually, on the first Monday of April, elect all subordinate officers for the ensuing year; define their duties, and fix their compensations, in cases where such duties and compensations shall not be defined and fixed by the laws of the State; and may by concurrent vote remove officers, when in their opinion sufficient cause for removal exists. All officers shall be chosen and vacancies supplied for the current year, except as herein otherwise directed. The City Council shall take care that moneys shall not be paid from the Treasury, unless granted or appropriated; shall secure a prompt and just accountability, by requiring bonds with sufficient penalty and surety or sureties from all persons trusted with

the receipt, custody or disbursement of money ; shall have the care and superintendence of city buildings, and the custody and management of all city property, with power to let or sell what may be legally let or sold ; and to purchase and take, in the name of the City, such real or personal property not exceeding the sum of thirty thousand dollars as they may think useful to the public interest. And the City Council shall, as often as once a year, cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property.

SECTION 5. Be it further enacted, That the City Assessors who shall be annually appointed by the City Council, shall exercise and be subject to the same powers, duties, and liabilities, that the Assessors in the several towns in this State may exercise and be subject to under existing laws—Provided, however, that the City Council shall appoint one person in each ward, whose duty it shall be to furnish the Assessors with all necessary information relative to persons and property, taxable in his ward ; and who shall be sworn or affirmed to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this State relative to town taxes : Provided, however, that it shall and may be lawful for the City Council to establish further or additional provisions for the collection thereof.

SECTION 6. Be it further enacted, That the City Council shall have exclusive authority and power to lay out any new street or public way, or widen, or otherwise alter, any street or public way in said City of Portland ; and to estimate the damages any individual may sustain thereby ; and shall in all other respects be governed by, and subject to, the same rules and restrictions as are provided in the laws of this State regulating the laying out and repairing streets and public highways. And any person aggrieved by the decision or judgment of said City Council, may, so far as relates to damages, appeal therefrom to the next Court of Common Pleas in the County of Cumberland, and which court is hereby empowered to hear and finally determine the same, by a committee, if the parties agree, or by a jury, and to render judgment and issue execution upon the report of such committee, or verdict of the jury, with cost for the prevailing party.

SECTION 7. Be it further enacted, That all the laws and regulations now in force in said town shall, notwithstanding this Act, be and remain in force until they shall expire by their own limitation, or be revised or repealed by the City Council. And prosecutions and suits

may be commenced and proceeded thereon in the name of the City, by officers, or other persons thereby empowered or directed to prosecute and sue; and the fines and penalties shall go to the uses in such laws or regulations named, or according to law.

SECTION 8. Be it further enacted, That the Municipal Court of the town of Portland shall have, in addition to its present powers and jurisdiction, which are hereby continued to it, cognizance of all offences against the By-laws and Regulations which may be established by the City Council of the City of Portland; and may, on conviction therefor, award such sentence as to law and justice may appertain; and any person, aggrieved by such sentence, may appeal therefrom to the Court of Common Pleas for the County of Cumberland, under the restrictions and conditions that the law provides in other cases of appeal from said Court.

SECTION 9. Be it further enacted, That for the purpose of holding elections for City Offices, said City shall be divided into seven wards, to contain as nearly as may conveniently be, an equal number of voters. And it shall be the duty of the City Council, once in ten years, or oftener, to revise, and if it be needful to alter said wards, in such manner as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards there shall, annually, on the Tuesday preceding the second Monday in April, be chosen, by written ballot, a Warden and Clerk, who shall hold their offices for one year, and until others shall have been chosen in their places. Said Warden and Clerk shall be sworn or affirmed to the faithful performance of their respective duties, by any Justice of the Peace of said City; and a certificate of such oaths or affirmations having been administered, shall be entered by the Clerk on the records of the ward. The Wardens shall preside at all ward meetings, with the powers of Moderators of town meetings. And if at any meeting the Warden should not be present, the Clerk of such ward shall call the meeting to order, and preside until a Warden *pro tem* shall be chosen. The Clerk shall record all the proceedings and certify the votes given; and deliver over to his successor in office all such records and journals, together with all other documents and papers held by him in said capacity. The inhabitants of each ward may choose two persons to assist the Warden in receiving, sorting and counting the votes. The list of the names of the legal voters in each ward shall be prepared by the Assessors and Board of Aldermen, assisted by the Wardens, in the same manner and under the same restrictions as are imposed by the laws of this State on the Assessors



and Selectmen of towns. And all regular ward meetings shall be notified and called by a warrant from the Mayor and Aldermen, in the manner prescribed by the laws of this State, for notifying and calling town meetings by the Selectmen of the several towns.

SECTION 10. Be it further enacted, That the Mayor shall be elected from the citizens at large, by the inhabitants of the City, voting in their respective wards; one Alderman and three Common Councilmen shall be elected by each ward, being residents in the wards where elected; all said officers shall be elected by written ballot, by a majority of the votes given, and shall hold their offices one year from the second Monday in April, and until others shall be elected in their places.

SECTION 11. Be it further enacted, That, on the Tuesday next preceding the second Monday in April, annually, immediately after a Warden and Clerk shall have been elected and sworn, the qualified electors of each ward shall ballot for a Mayor, one Alderman and three Common Councilmen; all the votes given for the said several officers respectively shall be sorted, counted, declared and registered in open ward meeting, by causing the names of the persons voted for, and the number of votes given for each, to be written in the Ward Record, in words at length. The Ward Clerk, within twenty-four hours after such election, shall deliver to the persons elected Aldermen and Common Councilmen, certificates of their election, and shall forthwith deliver to the City Clerk a certified copy of the record of such election; Provided, however, that if the choice of Aldermen and Common Councilmen cannot conveniently be effected on that day, the meeting may be adjourned to another day, not more than two days thereafter, to complete such election. The Board of Aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person, who shall have been elected Mayor, by a majority of the votes given in all the wards, to be notified in writing of his election; but if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said Board shall issue their warrants for another election, and in case the citizens shall fail on a second ballot to elect a Mayor, the City Council in convention shall, from the four highest candidates voted for and returned, elect a Mayor for the ensuing year; and in case of a vacancy in the office of Mayor, by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election, in the manner hereinbefore provided for the choice of said officer. The oath, or affirmation, prescribed by this Act, shall

be administered to the Mayor by the City Clerk, or any Justice of the Peace in said city. The Aldermen and Common Councilmen elect, shall, on the second Monday in April, at ten o'clock in the forenoon, meet in convention, when the oath or affirmation, required by the second section of this Act, shall be administered to the members of the two Boards present, by the Mayor, or any Justice of the Peace, and thereupon the two Boards shall separate, and the Board of Common Council shall be organized by the election of a President and Clerk.

SECTION 12. Be it further enacted, That the City Clerk shall be Clerk of the Board of Aldermen. He shall perform such duties as shall be prescribed by the Board of Aldermen, or Common Council, and shall perform all the duties and exercise all the powers by law incumbent upon, or vested in, the Town Clerk of the town of Portland. He shall give notice in two of the papers printed in said city, of the time and place of regular ward meetings, but the place of regular ward meetings and also the day and hour, when not fixed by law, shall be determined by the Board of Aldermen. The Board of Aldermen may, in the absence of the Mayor, choose a President *pro tempore*, who shall preside at joint meetings of the two Boards. Each Board shall keep a record of its proceedings, and judge the election of its own members; and in case of failure of election, or of vacancy by death, resignation, or otherwise, may order new elections. A quorum for the transaction of business shall, in each Board, consist of a majority of the members thereof.

SECTION 13. Be it further enacted, That for all the purposes of the election of Governor, Senators and Representatives, in the Legislature of this State, and Register of Deeds, and Treasurer for the County of Cumberland, and of Representatives in Congress, and Electors of President and Vice President, the inhabitants of said town of Portland shall, however, remain and continue a town, and shall possess all the rights and powers, and be subject to all the duties, obligations and liabilities of other towns in this State, so far as regards the election of the officers aforesaid. And the Aldermen of said city, shall, *ex officio*, be the Selectmen of said town for the purposes of all such election; and the election of persons to the office of Aldermen of said City shall be taken and deemed, and is hereby declared, an election to the office of Selectmen of said town; and the City Clerk and City Assessors shall, *ex officio*, be Town Clerk and Town Assessors for all the purposes of such elections; and the election of any person to the

office of City Clerk, or to the office of City Assessor, shall be taken and deemed, and is hereby declared an election to the office of Town Clerk and Assessor of the town, respectively; and the said officers, in addition to their oath of office as City officers, shall respectively be sworn as Selectmen, Town Clerk, and Assessors of the town of Portland, as now required by law; and they shall be required to perform all the duties, shall be under all the obligations, and shall be subject to all the liabilities that the Selectmen, Town Clerk and Assessors of other towns are, for all the purposes of the election of Governor, Senators and Representatives in the Legislature of this State, and Register of Deeds, and Treasurer for the County of Cumberland, and of Representatives in Congress, and electors of President and Vice President; and the City Constables shall be Constables of the town for the purpose of notifying all town meetings for such elections, and of maintaining order in said meetings.

SECTION 14. Be it further enacted, That general meetings of the citizens, qualified to vote in City affairs, may, from time to time, be held to consult upon the public good—to instruct their Representatives, and to take all lawful measures to obtain redress of any grievances according to the right secured to the people by the Constitution of this State, and such meetings may, and shall be, duly warned by the Mayor and Aldermen upon the requisition of thirty qualified voters of said City.

SECTION 15. Be it further enacted, That it shall be the duty of the Selectmen of the town of Portland, as soon as may be, after this Act shall have been accepted, as hereinafter provided, to cause a division of the said town to be made into seven wards, in such manner as to include, as nearly as conveniently may be consistently with well defined limits to each ward, an equal number of voters in each ward.

SECTION 16. Be it further enacted, That for the purpose of organizing the system of Government hereby established, and putting the same into operation in the first instance, the Selectmen of the town for the time being, shall, seasonably, before the second Monday of April, issue their warrants for calling meetings of the said citizens, at such place and hour as they shall think expedient, for the purpose of choosing a Warden and Clerk for each ward, and also to give in their votes for a Mayor to be taken from the City at large, and one Alderman and three Common Councilmen for each ward; and the transcript of the records of each ward, specifying the votes given for a Mayor, one Alderman and three Common Councilmen, certified by the Warden and Clerk of such ward, shall at said first election be returned to the Selectmen of the

said town of Portland, whose duty it shall be to examine and compare the same. And in case said elections shall not be complete at the first election, then to issue a new warrant until such election shall be completed, and to give notice thereof in the manner hereinbefore directed, to the several persons elected. And at said first meeting, any inhabitant of said ward, being a legal voter, may call the citizens to order and preside until a Warden shall have been chosen. And at said first meeting, a list of voters in each ward, prepared and corrected by the Selectmen of the town of Portland for the time being, shall be delivered to the Clerk of each ward, when elected, to be used as provided by law in town meetings; and it shall be the duty of the City Council in convention, immediately after their first organization, to elect by ballot a City Clerk, and all other necessary City Officers, who shall hold their offices respectively until the second Monday in April then next.

SECTION 17. Be it further enacted, That this act shall take effect and be in full force when the same shall have been accepted by the inhabitants of said town, qualified to vote in town affairs, at a legal town meeting called for that purpose, and by such a majority of all the votes given on the question of its acceptance, that the number in favor of such acceptance shall be to the number against it, in the proportion of, at least, four to three: provided it shall be so accepted within three years from the passing of this Act; but not more than one meeting, for that purpose, shall be called in the same year. And the vote on such acceptance shall be taken by written or printed ballot.

SECTION 18. Be it further enacted. That all Acts and parts of Acts, inconsistent with the provisions of this Act, be and the same are hereby repealed, from and after the time when this Act shall have been accepted as aforesaid, and the new system of government organized, as herein provided.

## AN ACT

### IN ADDITION TO AN ACT TO INCORPORATE THE CITY OF PORTLAND, CHAPTER 325 OF 1833.

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SECTION 1. Be it enacted by the Senate and House of Representatives in Legislature assembled, that hereafter every law, act, ordinance, or bill for the appropriation of money, having passed both branches of the City Council, shall be presented to the Mayor of the City, and if he approve the same he shall sign it; if not, he shall return it, in seven days, with his objections, to that branch of the City Council in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider said law, act, ordinance, or bill. If upon such reconsideration two-thirds of the whole number of that branch shall agree to pass it, it shall be sent, together with the objections, to the other branch, by which it shall be reconsidered, and if approved by two-thirds of that branch, it shall have the same effect as if signed by the Mayor.

SECTION 2. Be it further enacted, That in addition to the wards enumerated in the ninth section of the Act to which this is additional, the several islands within the City of Portland shall be and hereby are so far constituted a separate ward, as to be entitled to choose a Warden, Ward Clerk, and one Common Councilman, and for that purpose to hold their ward meetings on the same days with the other wards, on any one of the Islands aforesaid, which a majority of the qualified electors, residing on said islands, may designate as a central and suitable place therefor; and at such meetings, there holden, the electors residing on the Islands may ballot for Mayor and Aldermen; Provided, however, that the votes thus thrown for Mayor and Aldermen shall be deemed as thrown in and belonging to ward numbered one. And after any meeting, at which there shall be a balloting for a Mayor or Aldermen, or both, it shall be the duty of the Clerk of the Island ward aforesaid, within eighteen hours after such meeting, to make a certified return of the votes for Mayor and Aldermen as aforesaid, to the Clerk of ward numbered one, to become a part of the record of said last named ward.

SECTION 3. Be it further enacted, That at the annual election, holden for the choice of Mayor and Aldermen, the qualified electors in each ward shall, by written ballot, elect two Constables, who shall be denominated City Constables, with all the powers, duties and liabilities appertaining to the office of constables.

SECTION 4. Be it further enacted, That the City of Portland be, and they hereby are, authorized to erect and maintain one or more Fish Markets, at such places below low-water mark in said City as they may find to be necessary and convenient for said City.

SECTION 5. Be it further enacted, That it shall be lawful for the City Council, by a committee by them appointed, or by instruction to the Commissioners of Streets, to appropriate, set off and reserve as sidewalks, such part or proportion of the several streets in said City, now or hereafter to be established, as to said City Council may appear necessary for the safety, convenience and accommodation of foot passengers.

SECTION 6. Be it further enacted, That it shall be lawful for the City Council to permit of direct posts of stone or wood or trees, to be placed along the edge of said sidewalk, next to the traveled part of the street, in such numbers and manner as they may deem necessary to protect said sidewalks, and the passengers traveling thereon, from damage or inconvenience from teams or carriages.

SECTION 7. Be it further enacted, That so much of the several streets in said City, as shall be appropriated and reserved for sidewalks, agreeably to the provisions of this Act, shall be taken and deemed to be reserved exclusively for the accommodation, convenience and use of persons travelling on foot; and said City shall not be liable to damages for injury done or occasioned in consequence of any cart, carriage, wagon, truck, or other vehicle, or any team or animal, striking against any of said sidewalks, or the posts, or trees, set or placed to defend the same.

SECTION 8. Be it further enacted, That the several sidewalks in said City, as at present established and used, shall be taken and deemed to be the proper and lawful reservations for that purpose, until altered or otherwise established by the proper authority.

SECTION 9. Be it further enacted, That the City Council shall have power, on such terms and conditions as they may think proper, to authorize and empower any person or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, crosswalk, bridge, watercourse or drain,

or for erecting, repairing or finishing any building or fences: Provided, that not more than one-third of the width of the street shall be so occupied. And such materials, so placed by virtue of any license obtained as aforesaid, shall not be considered as an incumbrance or nuisance in such street; and the City, or person or corporation, so placing the same, shall not be liable for any damage occasioned by such materials. Provided, however, that this Act shall not take effect or be in force against any person or persons (excepting inhabitants who have a residence and settlement in the City of Portland), and shall not be so construed as to deprive him or them of any right or privilege to which they are now entitled by the general laws of this State, and particularly the right of recovering damages against such corporation for injuries sustained by reason of their highways or streets being encumbered, unsafe, and out of repairs.

Approved February 19th, 1833.

## AN ACT ADDITIONAL TO THE SEVERAL ACTS INCORPORATING THE CITY OF PORTLAND.

Special Act of 1834, Chapter 500.

SECTION 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That that part of ward numbered one, composed of the Islands within the City of Portland, shall have power, and it shall be the duty of the inhabitants thereof, at any meeting held for the purpose of choosing city officers, after having given in their votes for such officers, and transacted any other business which they may have been authorized and required to transact, to adjourn said meeting for the term of two days, for the purpose of ascertaining whether any choice of city officers has taken place, and such further adjournments may be had, not exceeding two days at any one time, until an election of city officers shall have been effected—and the inhabitants of the Islands aforesaid shall have power to elect one Constable, who shall be a resident on some one of the said Islands.

SECTION 2. Be it further enacted, That that part of ward numbered one, exclusive of the Islands, shall be entitled to two Common Councilmen and no more.

SECTION 3. Be it further enacted, That this Act shall take effect from and after the passage thereof, and any Acts inconsistent with the provisions of this Act, are hereby repealed.

Approved March 10th, 1834.

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## AN ACT TO REGULATE ELECTIONS WITHIN THE CITY OF PORTLAND.

Special Act of 1837, Chapter 281.

Be it enacted by the Senate and House of Representatives in Legislature assembled, That the provisions of the second section of an act entitled, "An Act in Addition to an Act to Incorporate the City of Portland," passed February 19th, in the year of our Lord one thousand eight hundred and thirty-three, be and the same is hereby extended so far as to authorize the legal voters, inhabitants of the Islands within the City of Portland, to vote on any of said Islands, which a majority of the qualified voters may designate for that purpose, for Governor,



Senators, and Representatives to the Legislature of this State, Representatives to Congress, County Treasurer, Register of Deeds, Electors of President and Vice President, and for all other civil officers, at any meeting legally held for that purpose; and the warden shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count, and declare them in open meeting, and in presence of the Clerk, who shall form a list of the persons voted for, with the number of the votes for each person against his name — shall make a fair record thereof in the presence of the Warden, and in open meeting, and a fair copy of this list shall be attested by the Warden and Clerk, sealed up in open meeting, and delivered to the Clerk of ward number one, within eighteen hours after the close of the polls, to become a part of the record of said last named ward — and the votes thus thrown shall be deemed as thrown in and belonging to ward number one.

Approved March 28th, 1837.

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### AN ADDITIONAL ACT CONCERNING THE CITY OF PORTLAND.

Special Act of 1838, Chapter 402.

Be it enacted by the Senate and House of Representatives in Legislature assembled, That the City of Portland be and hereby is authorized and empowered to purchase and hold real and personal estate, to the amount of one hundred thousand dollars, in addition to the property they now hold.

Approved February 10th, 1838.

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### AN ACT OF AMENDMENT TO AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE CITY OF PORTLAND.

Special Act of 1845, Chapter 266.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. The Act passed on the nineteenth day of February, in the year of our Lord eighteen hundred and thirty-three, entitled "An Act in Addition to an Act to Incorporate the City of Portland," be

amended by striking out all of the second section after the enacting clause, and inserting the following, viz.: "That in addition to the wards enumerated in the ninth section of the Act to which this is additional, the several Islands within the City of Portland shall be and hereby are so far constituted a separate ward, as to be entitled to choose a Warden and Ward Clerk, and for that purpose to hold their ward meetings on the same days with the other wards, on any one of the Islands aforesaid, which a majority of the qualified electors, residing on said islands, may designate as a central and suitable place therefor; and at such meetings, there holden, the electors residing on the Islands may ballot for Mayor and Aldermen and Common Councilmen. Provided, however, that the votes thus thrown for Mayor and Aldermen and Common Councilmen shall be deemed as thrown in and belonging to ward numbered one. And after any meeting at which there shall be a balloting for Mayor, Aldermen and Common Councilmen, or for any or either of said officers, it shall be the duty of the Clerk of the Island ward aforesaid, within eighteen hours after such meeting, to make a certified return of the votes for Mayor and Aldermen and Common Councilmen as aforesaid, to the Clerk of ward numbered one, to become a part of the record of said last named ward."

SECTION 2. The second section of an Act passed the tenth day of March, in the year of our Lord eighteen hundred and thirty-four, entitled an Act additional to the several acts incorporating the City of Portland, is hereby repealed.

SECTION 3. This Act shall take effect from and after its approval by the Governor.

Approved March 27th, 1845.

# CITY CHARTER

## AND ADDITIONAL ACTS.

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For notes on City Charter, see page following last  
Act additional to City Charter.

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(CHAPTER 275 OF THE SPECIAL LAWS OF 1863, ENTITLED "AN ACT TO CONFER CERTAIN POWERS ON THE CITY OF PORTLAND," APPROVED MARCH 24, 1863.)

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

SECTION 1. The inhabitants of Portland shall continue to be a body politic and corporate by the name of the **City of Portland**, and as such, shall have, exercise and enjoy all the rights, immunities, **powers, privileges and franchises**, and shall be subject to all the **duties** and obligations now appertaining to or incumbent upon said city, or the inhabitants or municipal authorities thereof; and **may ordain** reasonable **by-laws and regulations** for municipal purposes, and impose **penalties** for the breach thereof, not exceeding one hundred dollars, to be recovered for such uses as the municipal authorities may appoint.

SECTION 2. **The administration of** all the fiscal, prudential and municipal **affairs of** said **city**, with the government thereof, shall be **vested in** one principal magistrate to be styled the **mayor**, and one council of seven, to be denominated the board of **aldermen**, and one council of twenty-one, to be denominated the board of **common council**, all of whom shall be inhabitants of said city; which board shall constitute and be called the city council; and shall be sworn or affirmed in the form prescribed by the constitution of the State for State officers.

(Amended by Chapter 11 of the Private and Special Laws of 1899, by "An Act to annex the city of Deering to the City of Portland.")

SECTION 3. **The mayor** of said city shall be the chief executive magistrate thereof. It shall be **his duty** to be vigilant and active in causing the laws of the State, and ordinances and regulations of the city, to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause violations or neglect of duty on their part to be punished. He shall, from time to time, communicate to the city council, or either board, such information, and recommend such measures, as the interest of the city may require. He shall preside at all meetings of the mayor and aldermen, and in joint meetings of the two boards, but shall have only a casting vote. He shall be compensated for his services by a **salary** to be fixed by the city council, payable at stated periods, and shall receive therefor no other compensation, which salary however, shall not be increased or diminished during his year of office.

SECTION 4. Every law, act, **ordinance**, resolve or **order**, requiring the consent of both branches of the city council, excepting rules and orders of a parliamentary character, **shall be presented to the mayor for approval**. If not approved by him he shall return it with his objections at the next stated session of the city council, to that branch in which it originated, which shall enter the objections at large on its journal, and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of two-thirds of all the members of that branch, it shall be sent, together with the objections, to the other branch, by which it shall be reconsidered, and if passed by two-thirds of that branch it shall have the same effect as if signed by the mayor. In case of vacancy in the office of mayor, when said law, Act, ordinance, resolve or order be finally passed, the same shall be valid without approval.

(Amended by Act of 1901, Chapter 384.)

SECTION 5. **The executive powers** of said city generally, and the administration of police and health departments, with all the powers of selectmen, except as modified by this Act, shall be **vested in the mayor and aldermen**. All the powers of establishing watch and ward, now vested by the laws of the State in the justices of the peace and municipal officers or inhabitants of towns, are vested in the mayor and aldermen, so far as relates to said city; and they are authorized to unite the watch and police departments into one department and establish suitable regulations for the government of the same. **The officers of police** shall be one chief, to be styled the **city marshal**, so many **deputy marshals** as the city council may by ordinance prescribe, and

so many watchmen and **policemen** as the mayor and aldermen may from time to time appoint. **All other powers** now or hereafter vested in the inhabitants of said city, and all powers granted by this Act, as well as all powers relating to the fire department, **shall be vested in the mayor and aldermen, and common council** of said city, to be exercised by concurrent vote, each board to have a negative upon the other. Each board shall keep a record of its proceedings, and judge of the election of its own members; and **in case of vacancies, new elections** shall be ordered by the mayor and aldermen.

SECTION 6. **The compensation of all subordinate city officers** whatsoever, shall be **fixed** by the city council. **All officers of the police and health** departments shall be **appointed by the mayor and aldermen**, and may be removed by them for good cause. **All other subordinate officers**, now elected by the mayor and aldermen or the city council, shall hereafter be **elected by joint convention** of the city council, and such officers may be removed for good cause, by concurrent vote passed in each branch by the assent of two-thirds of all the members thereof. Except as otherwise specially provided in this Act, **all subordinate officers** shall be **elected annually** on the second Monday of March, or as soon thereafter as may be, and **their term of office** shall be for one year, and until others are qualified in their place. **All vacancies** may be filled by the board having authority to elect.

(Amended by Act of 1901, Chapter 384.)

SECTION 7. **No money shall be paid** out of the city treasury **except on orders** drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor, by the city council; and the city council shall secure a prompt and just accountability by requiring **bonds** with sufficient penalty and surety or sureties, **from all persons intrusted with** the receipt, custody or disbursement of **money**; they shall have the **care** and superintendence of the **city buildings** and the **custody and management of all city property**, with power to let or sell what may be legally let or sold, and to purchase and take in the name of the city, real and personal property for municipal purposes to an amount not exceeding two hundred thousand dollars in addition to that now held by the city. And **shall** as often as once a year **cause to be published** for the information of the

inhabitants, a particular **account of receipts and expenditures, and a schedule of city property.**

SECTION 8. The **assessors** shall continue to be elected on the second Monday in March. At the first election thereof under this Act, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years, and one for three years, and at each subsequent election one assessor shall be **elected for three years**, each of whom shall continue in office until some other person shall have been elected and qualified in his place. The city council shall elect an **assistant assessor** in each ward, whose **duty** it shall be to furnish the assessors with all the necessary information relative to persons and property taxable in his ward; he shall be sworn or affirmed to the faithful performance of his duty. All **taxes** shall be **assessed**, apportioned and collected in the **manner prescribed by the laws of this State** relative to town taxes, except as herein modified; and the city council may establish further or additional provisions for the collection thereof, and of interest thereon. There shall be elected at the first election of subordinate officers under this Act in March twelve persons for **overseers of the poor** and workhouse, four of whom shall be **elected for one year, four for two years, and four for three years**; and all subsequent annual elections shall be for the term of **three years**.

(Amended by Act of 1901, Chapter 384.)

SECTION 9. The **city council** shall have exclusive authority to **lay out**, widen or otherwise alter, or discontinue any and all **streets** or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and **to estimate all damage** sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. A joint standing **committee** of the two boards shall be appointed, whose **duty** it shall be **to lay out**, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The **committee** shall first **hear all parties** interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and **shall make a written return of their proceedings**, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known,

and the damages allowed therefor; the **return** shall be **filed** in the city clerk's office at least seven days **previous** to its **acceptance** by the city council. The **street** or way **shall not be altered** or established **until** the **report is accepted** by the city council, and the report shall not be altered or amended before its acceptance. A **street** or way shall not be **discontinued** by the city council, excepting upon the report of said committee. The committee shall estimate and report the **damages** sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk seven days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, **appeal** therefrom to the next court having jurisdiction thereof in the county of Cumberland, which court shall determine the same by a committee or reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment, and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the Supreme Judicial Court, which shall first be holden in the county of Cumberland, more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants, shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall **not be compelled to construct or open any street** or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise until they decide to open and construct said street. The city council may regulate the **height and width of sidewalks** in any public square, places, streets, lanes

or alleys in said city; and may authorize **posts and trees** to be **placed along the edge of said sidewalks**. Nor shall the city be answerable for damages occasioned by **telegraph poles** and wires erected in its streets.

**SECTION 10.** The mayor may on such terms and conditions as he may think proper, **authorize** and empower any **person** or corporation to place in any street, for such time as may be necessary, any **materials** for making or repairing any street, sidewalk, crosswalk, bridge, water-course or drain, or for erecting, repairing, or finishing any building or fences, or for laying or repairing gas or water pipes, provided that **not more than one-half of the width of the street shall be so occupied**. And such material so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city shall not be liable to any person for any damages occasioned by such materials.

**SECTION 11.** The city shall remain divided into seven **wards**; and it shall be the **duty** of the city council, **once in ten years** or oftener, to **revise**, and if it be needful, to alter such **wards**, in such manner as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a **warden and clerk**, who shall hold their offices for one year, from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the ward. The warden shall preside at all ward meetings, with the powers of moderators of town meetings. If at any meeting the warden shall not be present, or shall refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden *pro tempore* shall be chosen. If both are absent, or shall refuse to act, a warden and clerk *pro tempore* shall be chosen. The clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office, all such records and journals, together with all other documents and papers held by him in said capacity. The **voters** of each ward **may choose two persons to assist** the warden in receiving, sorting and counting the votes.

All regular **ward meetings** shall be notified and **called by warrant** from the mayor and aldermen, in the manner prescribed by the



laws of this State for notifying and calling town meetings by the selectmen of the several towns.

(Amended by Chapter 11 of Special Laws of 1899.)

SECTION 12. The **mayor** shall be **elected** by the inhabitants of the city, voting in their respective wards. One **alderman**, three common **councilmen**, a **warden** and **clerk**, and two **constables** shall be elected by each ward, being residents in the ward where elected. All said officers shall be **elected by ballot** by a majority of the votes given; and shall **hold** their **offices one year** from the second Monday in March, and until others shall be elected and qualified in their places. All city and ward **officers** shall be **held to discharge** the **duties of the offices** to which they have been respectively elected, **notwithstanding** their **removal** after their election **out of** their respective **wards** into any other wards in the city; but they shall not so be held after they have taken up their permanent residence out of the city.

(Amended by Act of 1901, Chapter 384.)

SECTION 13. On the first Monday in March annually, the qualified **electors** of each ward shall **ballot for mayor**, one **alderman**, three **common councilmen**, a **warden** and **clerk**, and two **constables**, on one ballot. The **ward clerk**, within twenty-four hours after such election, shall **deliver** to the persons elected, **certificates of their election**, and shall forthwith deliver to the city clerk, a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. **If the choice** of any such officers is **not effected** on that day, the **meeting** shall be **adjourned** to another day, (not more than two days thereafter,) to complete such election, and may so adjourn from time to time, until the election is complete. The **board of aldermen** shall, as soon as conveniently may be, **examine** the **copies of the records** of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor by a majority of the votes given in all the wards, to be notified in writing of his election. But **if** it shall appear that **no person** shall have been so **elected**, or **if** the person **elected shall refuse to accept** the office, the said board shall issue their warrants for another election; and in case the citizens shall fail on a **second ballot** to elect a mayor, the city council in convention shall, from the four highest candidates voted for at the second election and returned, elect a mayor for the ensuing year; and in case of a vacancy in the **office of mayor** by death, resignation or otherwise, it shall be

filled for the remainder of the term by a new election in the manner herein before provided for the choice of said officer. **The oath** or affirmation prescribed by this act, shall be **administered** to the mayor by the **city clerk** or any justice of the peace in said city. **The aldermen and common councilmen** elect, shall on the second Monday in March, at 10 o'clock in the forenoon, **meet in convention**, when the oath or affirmation required by the second section of this act shall be administered to the members of the two boards present, by the mayor or any justice of the peace, after which the board of common council shall be organized by the election of a president and clerk. **The city council shall**, by ordinance, **determine the time of holding** stated or regular **meetings** of the board, and shall also, in like manner, determine the manner of calling **special meetings** and the persons by whom the same shall be called; but until otherwise provided by ordinance, **special meetings** shall be **called by** the mayor by causing a **notification** to be left at the usual residence or place of business of each member of the board or boards to be convened.

(Amended by Act of 1901, Chapter 384.)

**SECTION 14.** After the organization of a city government and the qualification of a mayor, and when a quorum of the **board of aldermen** shall be present, said board, the mayor presiding, shall proceed to **choose** a permanent **chairman** who, in the absence of the mayor, shall preside at all meetings of the board, or at conventions of the two boards, and in case of any vacancy in the office of mayor, he shall exercise all the **powers and** perform all the **duties** of the office so long as such vacancy shall remain; he shall continue to **have a vote in the board**, but shall **not** have the **veto power**. The board of aldermen, in the absence of the mayor and permanent chairman, shall choose a president *pro tempore* who shall exercise the powers of a permanent chairman.

**SECTION 15.** In addition to the seven wards, the several **islands** within the city of Portland, are so far constituted a separate ward as to entitle the legal voters thereon to **choose a warden, ward clerk**, and one **constable**, who shall be residents on said islands. They shall hold their ward **meetings** on any one of the islands which a majority of the qualified **voters residing on said islands** may designate, and may, on the days of election, vote at the place designated for all officers named in the warrant calling the meeting. **The warden** shall preside at all meetings, receive the votes of all qualified electors present whose names are borne on the lists; shall sort, count and declare the votes in

open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person, and a fair record thereof, in presence of the warden and in open meeting, and a copy of the list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one, within eighteen hours after the close of the polls, to become a part of the record of said ward; and all votes thus thrown shall be deemed as thrown in and belonging to ward number one. All **meetings of the voters of said island ward**, for choice of municipal officers, **shall**, after the business of the meeting is transacted, **stand adjourned for two days**, to determine whether an election has been effected; and adjournments may be had, not exceeding two days at one time, until the election has been effected. If the **warden or clerk** of said island ward shall be **absent** at any election, a warden or clerk may be chosen *pro tempore*. Or in case of **failure or omission to elect a warden or clerk**, said officers may be chosen at any legal meeting duly called in said ward.

(Amended by Act of 1879, Chapter 97.)

SECTION 16. The city council, in behalf of the city, **may offer rewards** for the prevention of crimes or detection of criminals. They may **remove** all sunken **wrecks** in the harbor or its entrances, and dispose of the same to defray the expense of removal, and may, at the expense of the city, cause its harbor to be kept open and unobstructed by ice. They may also **require** all sail **boats** not under register or license, kept for hire in said harbor, **to be examined and licensed** for that purpose, and to be furnished with air-tight compartments; and may establish such regulations respecting such boats as they may deem expedient. They **may** also **make** and enforce by penalties, **regulations respecting the enclosure of lots** abutting on any street or way in the city, which may for want of such enclosure, be dangerous to the public; and after notice to the owners or lessees of such lots, may, if the same are not enclosed in a reasonable time, cause the same to be enclosed at the expense of the owners or lessees. They may **make regulations relative to the assize of bread** sold, or offered for sale within said city. They **may assess money** for celebration of the anniversary of our national independence, and other public celebrations.

(Amended by Act of 1875, Chapter 21.)

SECTION 17. The city clerk shall be clerk of the board of aldermen. He shall perform such **duties** as shall be prescribed by the

mayor and aldermen or the city council, and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in two or more of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the board of aldermen. In case of the temporary absence of the city clerk, the mayor and aldermen may appoint a city clerk *pro tempore*.

SECTION 18. General **meetings** of the **citizens** qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the constitution of this State; and such meeting **shall be duly warned by the mayor and aldermen** upon requisition of sixty qualified voters. The city clerk shall act as clerk of such meetings, and record the proceedings upon the city records.

SECTION 19. The **aldermen and common councilmen** shall **not be entitled to** receive any **salary** or other compensation during the year for which they are elected, **nor be eligible to any office of profit** or emolument, the salary of which is payable by the city; and all **departments, boards, officers and committees**, acting under the authority of the city, and **entrusted with the expenditures of public money, shall expend the same for no other purpose than that for which it is appropriated**; and shall be **accountable therefor to the city**, in such manner as the city council may direct.

SECTION 20. The **treasurer** of the city of Portland shall also be the collector for said city with all the **powers** of collectors of taxes under the laws of this State. He shall be styled treasurer and collector and shall give but one **bond**, said bond to be approved by the mayor and aldermen, for the faithful performance of his duties; and **may appoint assistants** and deputies as provided by law. All **warrants** directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The **method of keeping**, vouching and settling his **accounts**, shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments in whatever year assessed as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such

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# CITY CHARTER

## AND ADDITIONAL ACTS.

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For notes on City Charter, see page following last  
Act additional to City Charter.

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(CHAPTER 275 OF THE SPECIAL LAWS OF 1863, ENTITLED "AN ACT TO CONFER CERTAIN POWERS ON THE CITY OF PORTLAND," APPROVED MARCH 24, 1863.)

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

SECTION 1. The inhabitants of Portland shall continue to be a body politic and corporate by the name of the **City of Portland**, and as such, shall have, exercise and enjoy all the rights, immunities, **powers, privileges and franchises**, and shall be subject to all the **duties** and obligations now appertaining to or incumbent upon said city, or the inhabitants or municipal authorities thereof; and **may ordain** reasonable **by-laws and regulations** for municipal purposes, and impose **penalties** for the breach thereof, not exceeding one hundred dollars, to be recovered for such uses as the municipal authorities may appoint.

SECTION 2. **The administration of** all the fiscal, prudential and municipal **affairs of** said **city**, with the government thereof, shall be **vested in** one principal magistrate to be styled the **mayor**, and one council of seven, to be denominated the board of **aldermen**, and one council of twenty-one, to be denominated the board of **common council**, all of whom shall be inhabitants of said city; which board shall constitute and be called the city council; and shall be sworn or affirmed in the form prescribed by the constitution of the State for State officers.

(Amended by Chapter 11 of the Private and Special Laws of 1899, by "An Act to annex the city of Deering to the City of Portland.")

SECTION 3. **The mayor** of said city shall be the chief executive magistrate thereof. It shall be **his duty** to be vigilant and active in causing the laws of the State, and ordinances and regulations of the city, to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause violations or neglect of duty on their part to be punished. He shall, from time to time, communicate to the city council, or either board, such information, and recommend such measures, as the interest of the city may require. He shall preside at all meetings of the mayor and aldermen, and in joint meetings of the two boards, but shall have only a casting vote. He shall be compensated for his services by a **salary** to be fixed by the city council, payable at stated periods, and shall receive therefor no other compensation, which salary however, shall not be increased or diminished during his year of office.

SECTION 4. Every law, act, **ordinance**, resolve or **order**, requiring the consent of both branches of the city council, excepting rules and orders of a parliamentary character, **shall be presented to the mayor for approval**. If not approved by him he shall return it with his objections at the next stated session of the city council, to that branch in which it originated, which shall enter the objections at large on its journal, and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of two-thirds of all the members of that branch, it shall be sent, together with the objections, to the other branch, by which it shall be reconsidered, and if passed by two-thirds of that branch it shall have the same effect as if signed by the mayor. In case of vacancy in the office of mayor, when said law, Act, ordinance, resolve or order be finally passed, the same shall be valid without approval.

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so many watchmen and **policemen** as the mayor and aldermen may from time to time appoint. **All other powers** now or hereafter vested in the inhabitants of said city, and all powers granted by this Act, as well as all powers relating to the fire department, **shall be vested in the mayor and aldermen, and common council** of said city, to be exercised by concurrent vote, each board to have a negative upon the other. Each board shall keep a record of its proceedings, and judge of the election of its own members; and **in case of vacancies, new elections** shall be ordered by the mayor and aldermen.

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SECTION 7. **No money shall be paid** out of the city treasury **except on orders** drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor, by the city council; and the city council shall secure a prompt and just accountability by requiring **bonds** with sufficient penalty and surety or sureties, **from all persons intrusted with** the receipt, custody or disbursement of **money**; they shall have the **care and superintendence of the city buildings** and the **custody and management of all city property**, with power to let or sell what may be legally let or sold, and to purchase and take in the name of the city, real and personal property for municipal purposes to an amount not exceeding two hundred thousand dollars in addition to that now held by the city. And **shall as often as once a year cause to be published** for the information of the

inhabitants, a particular account of receipts and expenditures, and a schedule of city property.

SECTION 8. The **assessors** shall continue to be elected on the second Monday in March. At the first election thereof under this Act, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years, and one for three years, and at each subsequent election one assessor shall be **elected for three years**, each of whom shall continue in office until some other person shall have been elected and qualified in his place. The city council shall elect an **assistant assessor** in each ward, whose **duty** it shall be to furnish the assessors with all the necessary information relative to persons and property taxable in his ward; he shall be sworn or affirmed to the faithful performance of his duty. All **taxes** shall be **assessed**, apportioned and collected in the **manner prescribed by the laws of this State** relative to town taxes, except as herein modified; and the city council may establish further or additional provisions for the collection thereof, and of interest thereon. There shall be elected at the first election of subordinate officers under this Act in March twelve persons for **overseers of the poor** and workhouse, four of whom shall be **elected for one year**, four for two years, and four for three years; and all subsequent annual elections shall be for the term of **three years**.

(Amended by Act of 1901, Chapter 384.)

SECTION 9. The **city council** shall have exclusive authority to **lay out**, widen or otherwise alter, or discontinue any and all **streets** or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and to **estimate** all **damage** sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. A joint standing **committee** of the two boards shall be appointed, whose **duty** it shall be to **lay out**, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The **committee** shall first **hear all parties** interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall **make a written return of their proceedings**, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known,

and the damages allowed therefor; the **return** shall be **filed** in the city clerk's office at least seven days **previous to its acceptance** by the city council. The **street** or way **shall not be altered** or established **until the report is accepted** by the city council, and the report shall not be altered or amended before its acceptance. A **street** or way shall not be **discontinued** by the city council, excepting upon the report of said committee. The committee shall estimate and report the **damages** sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk seven days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, **appeal** therefrom to the next court having jurisdiction thereof in the county of Cumberland, which court shall determine the same by a committee or reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment, and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the Supreme Judicial Court, which shall first be holden in the county of Cumberland, more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants, shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall **not be compelled to construct or open any street** or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise until they decide to open and construct said street. The city council may regulate the **height and width of sidewalks** in any public square, places, streets, lanes

or alleys in said city; and may authorize **posts and trees** to be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by **telegraph poles** and wires erected in its streets.

**SECTION 10.** The mayor may on such terms and conditions as he may think proper, authorize and empower any **person** or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, crosswalk, bridge, water-course or drain, or for erecting, repairing, or finishing any building or fences, or for laying or repairing gas or water pipes, provided that **not more than one-half of the width of the street shall be so occupied.** And such material so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city shall not be liable to any person for any damages occasioned by such materials.

**SECTION 11.** The city shall remain divided into seven wards; and it shall be the duty of the city council, **once in ten years** or oftener, to revise, and if it be needful, to alter such wards, in such manner as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a **warden and clerk**, who shall hold their offices for one year, from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the ward. The warden shall preside at all ward meetings, with the powers of moderators of town meetings. If at any meeting the warden shall not be present, or shall refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden *pro tempore* shall be chosen. If both are absent, or shall refuse to act, a warden and clerk *pro tempore* shall be chosen. The clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office, all such records and journals, together with all other documents and papers held by him in said capacity. The **voters** of each ward **may choose two persons to assist** the warden in receiving, sorting and counting the votes.

All regular **ward meetings** shall be notified and called by **warrant** from the mayor and aldermen, in the manner prescribed by the

laws of this State for notifying and calling town meetings by the selectmen of the several towns.

(Amended by Chapter 11 of Special Laws of 1899.)

SECTION 12. The **mayor** shall be **elected** by the inhabitants of the city, voting in their respective wards. One **alderman**, three common **councilmen**, a **warden** and **clerk**, and two **constables** shall be elected by each ward, being residents in the ward where elected. All said officers shall be **elected by ballot** by a majority of the votes given; and shall **hold** their **offices one year** from the second Monday in March, and until others shall be elected and qualified in their places. All city and ward **officers** shall be **held to discharge** the **duties of** the **offices** to which they have been respectively elected, **notwithstanding** their **removal** after their election **out of** their respective **wards** into any other wards in the city; but they shall not so be held after they have taken up their permanent residence out of the city.

(Amended by Act of 1901, Chapter 384.)

SECTION 13. On the first Monday in March annually, the qualified **electors** of each ward shall **ballot for mayor**, one **alderman**, three **common councilmen**, a **warden** and **clerk**, and two **constables**, on one ballot. The **ward clerk**, within twenty-four hours after such election, shall **deliver** to the persons elected, **certificates of their election**, and shall forthwith deliver to the city clerk, a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. **If the choice** of any such officers is **not effected** on that day, the **meeting** shall be **adjourned** to another day, (not more than two days thereafter,) to complete such election, and may so adjourn from time to time, until the election is complete. The **board of aldermen** shall, as soon as conveniently may be, **examine** the **copies of the records** of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor by a majority of the votes given in all the wards, to be notified in writing of his election. But **if** it shall appear that **no person** shall have been so **elected**, or **if** the person **elected shall refuse to accept** the office, the said board shall issue their warrants for another election; and in case the citizens shall **fail on a second ballot** to elect a mayor, the city council in convention shall, from the four highest candidates voted for at the second election and returned, elect a mayor for the ensuing year; and in case of a vacancy **in the office of mayor** by death, resignation or otherwise, it shall be

filled for the remainder of the term by a new election in the manner herein before provided for the choice of said officer. **The oath or affirmation prescribed by this act, shall be administered to the mayor by the city clerk or any justice of the peace in said city. The aldermen and common councilmen elect, shall on the second Monday in March, at 10 o'clock in the forenoon, meet in convention,** when the oath or affirmation required by the second section of this act shall be administered to the members of the two boards present, by the mayor or any justice of the peace, after which the board of common council shall be organized by the election of a president and clerk. **The city council shall, by ordinance, determine the time of holding stated or regular meetings of the board, and shall also, in like manner, determine the manner of calling special meetings and the persons by whom the same shall be called; but until otherwise provided by ordinance, special meetings shall be called by the mayor by causing a notification to be left at the usual residence or place of business of each member of the board or boards to be convened.**

(Amended by Act of 1901, Chapter 384.)

**SECTION 14.** After the organization of a city government and the qualification of a mayor, and when a quorum of the **board of aldermen** shall be present, said board, the mayor presiding, shall proceed to **choose a permanent chairman** who, in the absence of the mayor, shall preside at all meetings of the board, or at conventions of the two boards, and in case of any vacancy in the office of mayor, he shall exercise all the **powers and perform all the duties** of the office so long as such vacancy shall remain; he shall continue to **have a vote in the board, but shall not have the veto power.** The board of aldermen, in the absence of the mayor and permanent chairman, shall choose a president *pro tempore* who shall exercise the powers of a permanent chairman.

**SECTION 15.** In addition to the seven wards, the several **islands** within the city of Portland, are so far constituted a separate ward as to entitle the legal voters thereon to **choose a warden, ward clerk, and one constable**, who shall be residents on said islands. They shall hold their ward **meetings** on any one of the islands which a majority of the qualified **voters residing on said islands** may designate, and may, on the days of election, vote at the place designated for all officers named in the warrant calling the meeting. **The warden** shall preside at all meetings, receive the votes of all qualified electors present whose names are borne on the lists; shall sort, count and declare the votes in

open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person, and a fair record thereof, in presence of the warden and in open meeting, and a copy of the list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one, within eighteen hours after the close of the polls, to become a part of the record of said ward; and all votes thus thrown shall be deemed as thrown in and belonging to ward number one. All **meetings of the voters of said island ward**, for choice of municipal officers, **shall**, after the business of the meeting is transacted, **stand adjourned for two days**, to determine whether an election has been effected; and adjournments may be had, not exceeding two days at one time, until the election has been effected. **If the warden or clerk** of said island ward shall be **absent** at any election, a warden or clerk may be chosen *pro tempore*. Or in case of **failure** or omission to elect a **warden or clerk**, said officers may be chosen at any legal meeting duly called in said ward.

(Amended by Act of 1879, Chapter 97.)

SECTION 16. **The city council**, in behalf of the city, **may offer rewards** for the prevention of crimes or detection of criminals. They **may remove** all sunken **wrecks** in the harbor or its entrances, and dispose of the same to defray the expense of removal, and may, at the expense of the city, cause its harbor to be kept open and unobstructed by ice. They may also **require** all sail **boats** not under register or license, kept for hire in said harbor, **to be examined and licensed** for that purpose, and to be furnished with air-tight compartments; and may establish such regulations respecting such boats as they may deem expedient. They **may** also **make** and enforce by penalties, **regulations respecting the enclosure of lots** abutting on any street or way in the city, which may for want of such enclosure, be dangerous to the public; and after notice to the owners or lessees of such lots, may, if the same are not enclosed in a reasonable time, cause the same to be enclosed at the expense of the owners or lessees. They may **make regulations relative to the assize of bread** sold, or offered for sale within said city. They **may assess money** for celebration of the anniversary of our national independence, and other public celebrations.

(Amended by Act of 1875, Chapter 21.)

SECTION 17. **The city clerk** shall be clerk of the board of aldermen. He shall perform such **duties** as shall be prescribed by the

mayor and aldermen or the city council, and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in two or more of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the board of aldermen. In case of the temporary absence of the city clerk, the mayor and aldermen may appoint a city clerk *pro tempore*.

SECTION 18. General **meetings** of the **citizens** qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the constitution of this State; and such meeting **shall be duly warned by the mayor and aldermen** upon requisition of sixty qualified voters. The city clerk shall act as clerk of such meetings, and record the proceedings upon the city records.

SECTION 19. The **aldermen and common councilmen** shall **not be entitled to receive any salary** or other compensation during the year for which they are elected, **nor be eligible to any office of profit** or emolument, the salary of which is payable by the city; and all **departments, boards, officers and committees**, acting under the authority of the city, and **entrusted with the expenditures of public money, shall expend the same for no other purpose than that for which it is appropriated**; and shall be **accountable therefor to the city**, in such manner as the city council may direct.

SECTION 20. **The treasurer** of the city of Portland shall also be the collector for said city with all the **powers** of collectors of taxes under the laws of this State. He shall be styled treasurer and collector and shall give but one **bond**, said bond to be approved by the mayor and aldermen, for the faithful performance of his duties; and **may appoint assistants** and deputies as provided by law. All **warrants** directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. **The method of keeping, vouching and settling his accounts**, shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments in whatever year assessed as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such



treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office. These provisions shall apply in all respects to the uncollected taxes of said city, assessed in the year eighteen hundred and sixty-three, but shall not in any way be construed to affect the collection of taxes assessed in other previous years.

SECTION 21. The original **location** of all **streets** and ways in said city **shall**, once in ten years, or oftener, **be ascertained by the city engineer**, under the direction of the city council, as accurately as practicable, the location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall give twenty days' notice, by advertisement in two or more public papers in the city, of the time and place at which it will act upon said report. Any person may appear and object to the report; and after a full hearing of all parties interested, the committee may accept, alter, or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines for such streets and ways in said city, according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as and for the original boundaries; and a record of the location thereof to be made upon the city records; and a copy of the last record of such proceedings respecting any street, with evidence of the location of the boundaries therein designated, shall in all judicial proceedings, be *prima facie* evidence of the place of the original location of said street.

SECTION 22. The **mayor and aldermen** of said city **may** on public occasions, by their order, **forbid the passing**, temporarily, of horses, carriages or other **vehicles**, over or **through** such **streets** or ways in said city, as they may deem expedient. **No existing wharf** in Portland **shall be extended** into the harbor a greater distance below low water mark than the same now exists, and hereafter no such new wharf shall be extended below low water mark into the harbor, without in either case the written assent of the mayor and aldermen. No wharf or incumbrance shall hereafter be erected or extended into said harbor **beyond the harbor commissioner's line**.

SECTION 23. The **city council** of Portland **may require** the **owner of** any lot of ground fronting on any street or way in said city, **to cause** the footway or **sidewalk** in front of said lot to be **paved**

with bricks or flat stones, with suitable curbstones, the same to be done under the direction, and to the approbation, of the committee on streets. If the **owner** of such lot shall **neglect to pave** the same as aforesaid, and provide such curbstones, for the space of twenty days after he, or the tenant of such lot, shall have been thereto required in writing by the commissioner of streets, it shall then be the duty of said commissioner to procure the curbstones and pave the sidewalk or footway; and the city shall have a lien on the property for expense thereof, to be enforced as in the following section. The **city council** before requiring any such sidewalk or footway to be so paved, **shall** by a general ordinance **assume a portion of said expense** to an amount not less than one-half thereof, to be paid by the city in money or materials, but no owner or proprietor shall be required to construct as aforesaid, more than two hundred feet in length of sidewalk or footway, in any one street in front of any unimproved lots or parcels of land.

SECTION 24. The **mayor and aldermen** of said city **may lay out**, maintain and repair all main **drains or common sewers** in said city, and may assess upon the owners of the abutting lots and other lot benefited thereby, and who shall enter the same directly or indirectly, a proportional part of the charge of making such main drain or common sewer, to be ascertained and assessed by the mayor and aldermen of said city, and by them certified, after notice thereof given in writing to the party to be charged, or by public advertisement for seven days in two daily papers in said city; but **not less than one-third** part of the cost of such main drain or common sewer **shall be paid by the city**, and shall not be charged to the abutters. **All assessments** so made **shall constitute a lien on the real estate so assessed**, for two years after they are laid. They shall be certified by the mayor and aldermen, under their hands, to the treasurer and collector of said city and his successors, with directions to collect the same according to law, and may, together with all incidental costs and expenses, be levied by sale of the estate by him or them, if the assessment is not paid within three months after a written demand of payment made by him or them, either upon the persons assessed or upon any person occupying the estate — such sale to be conducted in like manner as sale for non-payment of taxes on land of resident owners, and with a similar right of redemption. **Any person**, who may deem himself **aggrieved** by any such assessment, **may appeal** to the Supreme Court in the same manner as is herein provided for appeals for damages for laying out streets, which court shall at the first term

appoint three persons who may be inhabitants of said city, to settle and assess the share to be charged to such appellant; they shall make a return of their doings to said court and their decision, if accepted, shall be final. And in case the assessment made by the mayor and aldermen shall not be reduced on such appeal, the city shall recover costs, but otherwise shall pay costs. Any person who shall, directly or indirectly, enter any such main drain or common sewer without first obtaining a permit from the mayor therefor, shall be subject to a fine not exceeding one hundred dollars.

SECTION 25. **All Acts** and parts of Acts **inconsistent** with this Act **are** hereby **repealed**. Provided, however, the repeal of the said Acts shall not affect any Act done, or any Act accruing, or accrued, or established, or any suit or proceeding had or commenced in any civil or criminal case before the time when such repeal shall take effect, and that no offence committed, and no penalty or forfeiture incurred, under the Acts hereby repealed, and before the time when such repeal shall take effect, shall be affected by the repeal. And provided, also, that all persons who, at the time the said repeal shall take effect, shall hold any office under the said acts or ordinances of the city shall continue to hold the same according to the tenure thereof, or until others are elected and qualified in their stead. And provided, also, that all the ordinances rules and regulations of the city of Portland, which shall be in force at the time when the said repeal shall take effect, shall continue in force until the same are repealed. No act which has been heretofore repealed shall be revived by the repeal of the above acts.

SECTION 26. This Act shall be void unless the inhabitants of the city of Portland, at legal ward meetings called for that purpose, by a written vote, determine to adopt the same; and the qualified voters of the city shall be called upon to give in their votes upon the acceptance of this Act, at meetings in the several wards, duly warned by the mayor and aldermen, to be held on the day of the next municipal election; and thereupon the same proceedings shall be had respecting the sorting, counting, declaring and recording the returns of said votes as is herein provided at the election of mayor; and the board of mayor and aldermen shall within three days meet together and compare the returns of the ward officers; and if it appear that a majority of all the votes given on the question of its acceptance are in favor thereof, the mayor shall forthwith make proclamation of the fact, and thereupon this Act shall take effect. And in case this Act is so adopted and takes effect, the terms of offices of all city officers which would otherwise expire in

April, in the year of our Lord eighteen hundred and sixty-four, shall expire on the second Monday of March, in the year of our Lord eighteen hundred and sixty-four, or as soon thereafter as other persons are qualified in their places; subordinate officers shall be elected in April, eighteen hundred and sixty-three, at the time now fixed by law.

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## AMENDMENTS TO CHARTER.

SECTION 1. Section 4 is so amended as to read as follows:

SECTION 4. "Every law, act, **ordinance**, resolve or **order**, requiring the consent of both branches of the city council, excepting rules and orders of a parliamentary character, **shall be presented to the mayor for approval**. If not approved by him he shall return it, with his objections, at the next stated session of the city council, provided said stated session is held at least one week after the aforesaid law, act, ordinance, resolve or order is presented to the mayor for his approval, to that branch in which it originated, which shall enter the objections at large on its journal and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of two-thirds of all the members of that branch, it shall be sent, together with the objections, to the other branch, by which it shall be reconsidered, and if passed by two-thirds of that branch, it shall have the same effect as if signed by the mayor. **The mayor** shall have the right to **approve as a whole** any resolve or order involving the appropriation and expenditure of money, or to approve or **disapprove specific items** thereof, and the portions approved shall thereby be in force in like manner as if no part thereof had been disapproved, and the portion or portions disapproved, shall thereupon take the same course, as herein provided, as though said resolve or order had been disapproved as a whole. In case of **vacancy in the office of mayor**, when said law, act, ordinance, resolve or order be finally passed, the same shall be valid without approval." (Chapter 384 of Laws of 1901.)

SECTION 2. Sections 6, 8, 12 and 13 are amended by striking out the words "second Monday in March" and inserting in the stead thereof the words "second Monday in December;" Section 13 is also amended by striking out the words "first Monday in March" and inserting in the stead thereof the words "first Monday in December." (Ib.)

SECTION 3. "**The terms of office** of all city officers, including subordinate city officers, that would otherwise expire on the second Monday in March, in the year of our Lord 1902, **shall expire on the second Monday in December**, in the year of our Lord 1901, or as soon thereafter as other persons are qualified in their places." (Ib.)

# CITY CHARTER—ADDITIONAL ACTS.

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## AN ACT ADDITIONAL TO CHAPTER 275, PRIVATE AND SPECIAL LAWS OF 1863, CONFERRING CERTAIN POWERS ON THE CITY OF PORTLAND.

Chapter 348 of the Private and Special Laws of 1870.  
Approved February 26, 1870.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

SECTION 1. The **city** of Portland **may** at their option **require** the owners of adjacent property to construct footways or **sidewalks** as now provided in the act to which this is additional, notwithstanding anything herein contained.

SECTION 2. The **city** of Portland **may** at their option without notice, and under such regulations or orders as they may have established or passed, or may hereafter establish or pass, **construct sidewalks** or footways, laid with brick, flat stones, concrete, or other materials, with suitable curbs, on any street or portion thereof, **and direct one-half the cost thereof to be assessed on adjacent lots**, and for that purpose may direct the curb to be set at any time previous to the construction of the walk, and cause the cost of the curb and the cost of the paving of the walk to be assessed separately, as each is or may be done; provided that no owner or proprietor shall be assessed for more than two hundred feet in length of sidewalk or footway, on any one street in front of any unimproved lots or parcels of land.

SECTION 3. **The expense of said walks** complete, or of said curbs, or of said paving, **shall be estimated and assessed** within one year, **by the mayor and aldermen** of said city on the several lots chargeable therewith, and by them certified to the city treasurer, in the manner and with all rights to the parties interested, as provided in section twenty-four of the Act to which this is additional, **and be enforced as**

therein provided, but said assessment shall at any time be corrected on due notice, and certified anew by the mayor and aldermen aforesaid, and no assessment shall be void by reason of error in the name of the owner or occupant of the lot assessed, provided the lot assessed is so described that the same may be distinctly known.

SECTION 4. **The provisions of the last section shall apply to all assessments of the cost of constructing any sewer heretofore or hereafter made in the city of Portland.**

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AN ACT ADDITIONAL TO AN ACT APPROVED MARCH  
TWENTY-FOURTH, EIGHTEEN HUNDRED AND SIXTY-  
THREE, ENTITLED "AN ACT TO CONFER CERTAIN  
POWERS ON THE CITY OF PORTLAND."

Chapter 21 of Private and Special Laws of 1875.  
Approved February 4, 1875.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

The **city** council of the city of Portland **shall have** the **power to purchase** and take, in the name of the city, **real and personal property** for municipal purposes, to an amount not exceeding two hundred thousand dollars, in addition to that now held by the city.

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AN ACT ADDITIONAL TO CHAPTER 275 OF THE PRIVATE  
AND SPECIAL LAWS OF 1863, CONFERRING CERTAIN  
POWERS ON THE CITY OF PORTLAND IN  
RELATION TO EVERGREEN CEMETERY.

Chapter 8 of the Private and Special Laws of 1881.  
Approved January 31, 1881.

SECTION 1. The city of Portland may ordain reasonable By-laws and regulations for the government of **Evergreen Cemetery**, and shall have full power and authority to impose and enforce penalties for the breach thereof, and for the punishment of offences committed in said cemetery.

SECTION 2. All by-laws and regulations heretofore ordained by said city of Portland for the government of Evergreen Cemetery are, and shall be valid and in force; and all penalties imposed under the same, and for the breach of the same and for punishment of offences committed in said cemetery, shall be enforced.

SECTION 3. This Act shall take effect when approved.

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AN ACT EXTENDING THE RIGHT OF THE MUNICIPAL  
OFFICERS OF THE CITY OF PORTLAND TO SEND  
FOR PERSONS AND PAPERS.

Chapter 86 of Private and Special Laws of 1881.  
Approved March 3, 1881.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

SECTION 1. **The Mayor and Aldermen** of the city of Portland shall **have power to** send for persons and papers, and **compel the attendance of witnesses** at any meeting of said board of Mayor and Aldermen at which a hearing is had in any matter of inquiry regarding alleged dereliction of duty of any city officer or any person in the employ of said city, or in any hearing on any municipal matter.

SECTION 2. The **Mayor** shall have power **to issue summons** to such witnesses as he shall require in such hearings.

SECTION 3. Any person failing to comply with the summons of the Mayor shall be punished by fine not less than five dollars nor more than fifty dollars or by imprisonment not more than thirty days.

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AN ACT ADDITIONAL TO THE CHARTER OF THE CITY  
OF PORTLAND, IN RELATION TO A  
BOARD OF HEALTH.

Chapter 469 of Private and Special Laws of 1885.  
Approved February 25, 1885.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

SECTION 1. The city council of Portland may provide by ordinance for the **appointment of the Board of Health** for the city, and pre-

scribing the term of office of its members, not to exceed three years for any one of them.

SECTION 2. This Act shall take effect when approved.

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## AN ACT TO ANNEX THE CITY OF DEERING TO THE CITY OF PORTLAND.

Chapter 11 of the Private and Special Laws of 1899. Approved February 6, 1899.  
As Amended by Chapter 190 of 1899.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

SECTION 1. The city of **Deering** is hereby **annexed** to and is a part of the city of Portland, and the inhabitants and territory of Deering are subject to the charter and ordinances of Portland, and to the Acts amendatory thereof and supplemental thereto, except as herein otherwise provided.

SECTION 2. The **city** of Portland as herein enlarged shall be **divided into nine wards**, and until the city council shall have revised the ward lines in the manner provided by law, **ward eight shall consist** of that part of the city of Deering lying westerly of the following described line, namely: beginning on the Back Bay at a point where the center of Pearl street in said Portland if extended would intersect the present boundary line of Portland; thence in a straight line across Back Bay to the center of Chenery street in the city of Deering; thence by the center of Chenery street to the center of Ocean street; thence by the center of Ocean street to the center of Forest avenue; thence by the center of Forest avenue to the center of Pleasant street; thence by the center of Pleasant street to the center of Stevens Plains avenue; thence by the center of Stevens Plains avenue to the center of Spring street; thence by the center of Spring street to the center of Brighton street; thence by the center of Brighton street to the Westbrook city line; and **ward nine shall consist** of that part of the city of Deering lying easterly of said line. Each of these wards so constituted shall have the same form of **organization and the same representation** in the city government and in the school committee of Portland as each of the other wards of said city, so that hereafter the **number** constituting the board of **aldermen shall be nine**, the



**number** constituting the **common council** shall be **twenty-seven**, and the number constituting the **school committee** shall be **ten**.

SECTION 3. On the first Monday in March in the year of our Lord one thousand eight hundred and ninety-nine, and thereafter **annually**, the qualified **electors** of each of said nine wards shall **ballot** for mayor, one alderman, three common councilmen, a warden and a clerk, and two constables, on one ballot in the manner provided by law. At said election for one thousand eight hundred and ninety-nine the electors of ward eight shall likewise ballot for a member of the **school committee** to serve for one year; and the electors of ward nine shall likewise ballot for a member of the school committee to serve for two years, and thereafter the electors in each of said wards shall elect a member of the school committee for two years.

SECTION 4. The **ward meetings** in said ward eight shall be **held** at the present **ward five ward room** of Deering, and the meetings in said ward nine shall be held at the present **ward two ward room of Deering**, until the city council shall otherwise provide.

SECTION 5. The warrants for the **first ward meetings** in said **wards eight and nine** shall be made returnable by the constable posting the same, to some voter in each of said wards designated by the municipal officers of Portland, who shall call said ward meeting to order for the election by open ballot of a warden to preside at said meeting, and a ward **clerk**, and the **warden** and clerk so **elected** shall qualify and perform all the duties devolving upon the warden and ward clerk under the provisions of law. The necessary **ballot and election clerks** for wards eight and nine shall be appointed according to law by the municipal officers of the city of Portland.

SECTION 6. From the **lists of voters** now registered in the several wards of Deering, the board of registration of Deering shall prepare two new lists, one to contain the names of all voters whose registered residence is within the limits of said **ward eight**, which list shall be the list of registered voters for said ward eight, and the other to contain the names of all voters whose registered residence is within the limits of said **ward nine**, which list shall be the list of registered voters for said ward nine, and shall deliver said new lists, together with their records, to the board of registration of Portland at least twelve days prior to the next municipal election, and thereafter changes therein may be made as in the lists of registered voters in other Portland wards.

SECTION 7. Upon the approval of this act, **all the city property** of Deering, together with all city moneys in the hands of the treasurer thereof, or under his control, **becomes the property of the city of Portland**, and the city of Portland shall assume all the obligations of the city of Deering then existing, and all indebtedness, both temporary and bonded, and shall provide for the payment thereof according to the terms under which said indebtedness was contracted, and the city of **Portland** shall become **liable for** and subject to all the **duties, responsibilities, and liabilities** of said city of **Deering**. All actions, causes of action, suits and proceedings which may be pending, or which shall have accrued at the time this act shall take effect, in behalf of or against the city of Deering, shall survive, and be heard and determined as though this Act had not passed.

(As amended by Chapter 190 of 1899.)

SECTION 8. **Until the inauguration** of the mayor and city council to be elected on the first Monday of March, in the year of our Lord one thousand eight hundred and ninety-nine, as hereinbefore provided, **the present municipal officers**, public officials, school committee and police officers of Deering, **shall continue** in office for the purpose of performing the duties required of them by law, and by the terms of this Act; but upon said inauguration the terms of all of them shall end.

SECTION 9. **All** persons upon whom **taxes** have been legally assessed by the city of **Deering**, and who have not **paid** the same, shall be required to make payment thereof **to the collector** of the city of **Portland**, who shall be the successor in office of the collector of the city of Deering, and such collections shall be paid into the treasury of the city of Portland. Unpaid **sidewalk, drain and sewer assessments** legally assessed by the city of Deering shall be **collected** in the manner provided by the Deering charter and ordinances, and the city of Portland shall have the same rights to enforce payment of said taxes, and sidewalk, sewer and drain assessments as the city of Deering would have had but for the passage of this Act.

(As amended by Chapter 190 of 1899.)

SECTION 10. **All the rights, contracts**, claims, immunities, privileges **and franchises** which might be exercised by the city of Deering **may be exercised** and enforced by the city of **Portland** as its successor; and **all privileges**, exemptions and immunities **granted** by the city of Deering shall remain **binding upon the city of Portland**.

SECTION 11. Upon the day of the inauguration of the mayor and city council to be elected on the first Monday of March, in the year of our Lord one thousand eight hundred and ninety-nine, as hereinbefore provided, **the control and superintendence of the present public schools of Deering shall be vested in the school committee of Portland** to the same extent and in the same manner as are other public schools of Portland, and the school facilities now furnished by the city of Deering shall not be hereafter curtailed or abridged, and **the high school in Deering shall be continued** on at least an equality as to the privileges and standards with said school as at present maintained.

SECTION 12. **All official records and documents in the city of Deering shall be transferred** from the several departments to which they respectively belong to the corresponding department in the **city of Portland**, and the production, attestation or **authentication of the same by the respective official custodian** of the records of said several departments in the city of Portland shall have the same effect in any legal proceedings as if produced, attested or authenticated by the custodian of the records of the department in said Deering from which the same were severally transferred.

SECTION 13. **The Deering Municipal Court** is hereby **abolished**, but for the purpose only of closing the business pending therein at the time of the approval of this Act, the entire jurisdiction thereof, civil and criminal, shall be conferred upon the Municipal Court for the city of Portland, which court shall issue executions or other process necessary to carry into effect any judgment, order or decree of said Deering Municipal Court. All complaints, civil suits, recognizances, appeals in civil and criminal cases, and all other processes, civil or criminal, pending in said Deering Municipal Court, shall be transferred forthwith to the Municipal Court for the city of Portland, to be entered on the docket thereof, and be heard and disposed of as if originally entered in said Municipal Court for the city of Portland; and all writs, petitions, warrants, and all processes whatever, returnable to and be entered on the docket of said Municipal Court for the city of Portland, and shall be heard and disposed of in said Municipal Court for the city of Portland as if originally entered therein. The judgments, decisions, orders and decrees of the Supreme Judicial Court, at any law term, made in cases originating in said Municipal Court shall be certified to the recorder of the Municipal Court for the city of Portland. **All records of the Deering Municipal Court and the custody of the same, shall**

be transferred to the recorder of the **Municipal Court** for the city of **Portland** to whose attestation of the same, or their contents, full faith shall be given.

**SECTION 14.** Until the next apportionment of representation for the legislature the inhabitants of the first seven wards shall be entitled to six **representatives** and the inhabitants of wards eight and nine shall be entitled to one representative, to be elected by said inhabitants at meetings to be held in the respective wards. All the **duties** heretofore required by law to be **performed by the mayor, aldermen and city clerk** of the city of **Deering**, or either of them, pertaining to the election of a representative in Congress, senators and members of the House of Representatives, and all said duties heretofore required by law to be performed by the mayor, aldermen and city clerk of the city of Portland or either of them, **shall in like manner devolve and be performed by the** board of mayor and aldermen and city clerk of the city of Portland.

**SECTION 15.** All Acts or parts of Acts inconsistent herewith, are hereby repealed.

**SECTION 16.** This Act shall take effect when approved.

# NOTES ON THE CHARTER.

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(These notes are intended as an aid to the City Government in disposing of questions which most frequently arise concerning charter powers of the city.)

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SECTION 1. The inhabitants of each town are by statute declared to be a body corporate, capable of suing and being sued, and of appointing attorneys and agents.

"The powers and duties of cities and towns are derived from legislative enactments, and they possess no powers or faculties not conferred upon them, either expressly or by fair implication, by the law which creates them or other statutes applicable to them."

For this reason usage cannot enlarge or diminish their powers regardless of the fact that the usage may be long established. "Abuses of power and violations of right derive no sanction from time or custom." 1 Allen, 103. These powers, when the conferring act requires them to be performed by the city council or either branch thereof, cannot be delegated to a committee of their own body or to others. *White vs. Mayor*, 2 Swan (Tenn.), 364; *State vs. Hauser*, 63 Ind. 155. But this does not prevent the city from appointing agents or committees and empowering them to make contracts. 36 Mo. 294.

The powers and duties of the city government have been enlarged and modified in many respects by special and general legislation.

For notes on "By-laws and Ordinances," see title "Ordinances and By-laws," *post*.

In the following cases, the courts of Maine and Massachusetts have considered matters pertaining to the rights, immunities, powers, privileges and franchises of towns and cities:

14 Me. 375; 8 Me. 334; 48 Me. 353; 4 Mass. 389; 112 Mass. 1; 21 Me. 58; 45 Me. 496; 53 Me. 575; 13 Mass. 198; 113 Mass. 67; 59 Me. 315; 52 Me. 118; 54 Me. 250; 23 Pick. 71; 134 Mass. 476; 62 Me. 92; 52 Me. 135; 55 Me. 135; 1 Met. 473; 134 Mass. 555; 62 Me. 451; 56 Me. 201; 62 Me. 62; 14 Allen 87; 135 Mass. 165; 66 Me. 585; 64 Me. 229; 63 Me. 231; 109 Mass. 311; 137 Mass. 171;

5 Cush. 408; 109 Mass. 355; 138 Mass. 286; 5 Cush. 438; 111 Mass. 407; 5 Cush. 442; 119 Mass. 385; 6 Gray 596.

SECTION 2. For definition of the term "prudential affairs," see *State vs. Boardman*, 93 Me. 77.

The term "municipal officers" includes the mayor and aldermen of cities, but does not include the common council. R. S., Chapter 1, Section 6.

For general duties of municipal officers, see R. S., Chapters 3 and 4.

The city council is a body entirely distinct and different from the mayor and aldermen; and where by law the written assent of the mayor and aldermen is required, the assent of the city council is nugatory and confers no authority for the purpose. See *Veazie vs. Mayo*, 45 Me. 560.

SECTION 3. As to nature and extent of authority of the mayor see 5 Gray 121; 7 Gray 12; 12 Ib. 161; 15 Ib. 103; 98 Mass. 39-582; 108 Mass. 208; 10 Allen 88; 112 Mass. 512; 141 Mass. 23; 131 Mass. 482.

R. S. of 1883, Chapter 3, Section 34, provides: "In the election of any city officers by ballot in the board of aldermen or in convention of the aldermen and common council, in which the mayor has a right to give a *casting vote*, if two or more candidates have each one-half of the ballots cast, he shall determine and declare which of them is elected. Whenever appointments to office are directed or authorized to be made by the mayor and aldermen of cities, they may be made by the mayor with consent of the aldermen, and such officers may be removed by the mayor." See also 67 Me. 61; 78 Me. 276; 79 Me. 78; 88 Me. 50; 89 Me. 448.

"Subordinate city officers," see 89 Me. 452.

SECTION 4. It has been decided that under a city charter requiring the mayor to "approve" of every law, act, or ordinance, etc., in order to render it operative, the approval must be in writing, and a law, act, or ordinance, etc., will not take effect without the mayor's written approval, although it has never been customary for him to express his approval affirmatively in writing of any action of the city council except general ordinances. *N. Y. R. R. Co. vs. City of Waterbury*, 55 Conn. 19; *Whitney vs. Port Huron* (Mich.), 50 N. W. Rep. 316. But there are also cases which hold that unless his signature is made essential to the validity of the vote, etc., by the express terms of the charter or statute, the requirement is only directory, and the absence of his signature not

fatal to the vote, etc. *Stevens vs. Bay City*, 26 Mich. 44; *Martindale vs. Palmer*, 52 Ind. 411; *Conboy vs. Iowa City*, 2 Iowa 90.

"If not approved by him he shall return it with his objections," etc. Unless the "objections" accompany the vote, the veto is wholly inoperative. *Truesdale vs. Rochester*, 33 Hun. 574.

The veto power exists only when the measure requires the consent of both branches of the city council.

If a vetoed measure fails of a passage in that branch of the city council to which it has been returned by the mayor, it should not be sent to the other branch. If it should have a passage in the first-named branch and should fail of a passage in the other branch, the latter branch may request a conference and may reconsider the vote provided two-thirds of all the members of that branch agree thereto. *State vs. Foster*, 2 Hulst. 101, 107; *Jersey City vs. State*, 30 N. J. L. 521, 529; *State vs. Jersey City*, 3 Dutch. 536.

The common form in putting the vetoed question, is: "Will the Board of Aldermen (or Common Council) on reconsideration agree to pass the law (act, ordinance, resolve, or order, as the case may be), the objections of the Mayor to the contrary notwithstanding."

The vote should be determined by yeas and nays, and the names of the persons voting for and against the measure should be entered on the journal of each house respectively.

Either branch may postpone the consideration of a vetoed measure to a future day; or refer the veto message, or the measure objected to, to a committee.

(Hinds' Parliamentary Practice.)

SECTION 5. Administration of police department, see *Andrews vs. King*, 77 Me. 224; *Mitchell vs. Rockland*, 52 Me. 118; 119 Mass. 199; 131 Mass. 482; 141 Mass. 23; 148 Mass. 256; 155 Mass. 216; 79 Me. 426, 484.

Administration of health department, see *Lyne vs. Rockland*, 66 Me. 309; 156 Mass. 52.

Administration of fire department, see 40 Me. 389; 51 Me. 264; 78 Me. 118; 8 Met. 462; 11 Allen 507; 104 Mass. 87; 111 Mass. 69; 127 Mass. 275; 140 Mass. 1.

For acts and ordinances relative to police, see title "Police," *post*; for health department, see "Health," *post*; for fire department, see "Fire Department," *post*.

SECTION 6. "The power to remove for cause is judicial in its nature; and when conferred upon superior officers it must be exercised reasonably; not capriciously or arbitrarily, but in the spirit of fairness; and must be guarded by proper precautions against favoritism and injustice. The power of removal for cause is strictly construed, and its exercise should be within the limits assigned to it by the enabling statute. The officer is entitled to notice and hearing, and if removed," without these (unless waived by him), he may have a judicial review (89 Me. 451; 30 Fed. Rep. 21; 57 Hun. 587), and if it is determined that he has been illegally removed, may recover the amount of compensation due him from the date of his removal to that of reinstatement, or to the expiration of his term of office. 13 Mich. 346; 31 Mo. App. 439; 3 Dutch. (N. J.) 275.

"The accused official is entitled to a personal notice of the charges which have been made against him, and of the time when the trial will take place." 77 Me. 224.

The time of the election of subordinate city officers has been changed, by amendment of charter (Chapter 384 of 1901), to second Monday in December.

An assignment by a public officer of the future salary of his office is contrary to public policy and is void. *Bliss vs. Lawrence*, 58 N. Y. 442, approving *Bangs vs. Dunn*, 66 Cal. 73, and explaining *Brackett vs. Blake*, 7 Met. 335; *Mulhall vs. Quinn*, 1 Gray 105, and *Macomber vs. Doane*, 2 Allen 541.

SECTION 7. Cities can appropriate moneys derived from taxation only to the purposes for which they are authorized by law to assess and collect them. The legislature has determined the purposes or uses for which money may be granted, assessed, and collected. It cannot be appropriated to different purposes after it has been collected. "The intention of the limitation was to prevent money from being assessed and collected for other objects than those named in the laws; and this intention cannot be defeated by a misapplication of the money by way of appropriation. The limitations upon the appropriation, and upon the collection, being the same when the money is derived from taxation, it becomes necessary to examine the statute provisions respecting the grant, assessment, and collection of money." *Hooper vs. Emery*, 14 Me. 378.

The purposes for which towns may raise money by taxation, in addition to those enumerated in the charter of Portland and by special acts



of the Legislature, are set forth in Chapter 3, Section 46 of the R. S. of 1883.

“The voters, at a legal town meeting, may raise the necessary sums for the support of schools and the poor; making and repairing highways, town ways and bridges; purchasing and fencing burying grounds; purchasing or building and repairing a hearse and hearse house, for the exclusive use of its citizens; and for other necessary town charges.”

(In addition thereto cities are authorized and empowered to appropriate money for the purpose of procuring the writing and publication of their histories, erecting soldiers' monument, defraying the expense for the observance of Memorial Day, propagation and protection of fish, etc.)

The phrase “other necessary town charges” is construed in *Stetson vs. Kempton*, 13 Mass. 278, to be, “that, in addition to the money to be raised for the poor, schools, etc., towns might raise such sums as should be necessary to meet the ordinary expenses of the year; such as the payment of such city officers as they should be obliged to employ, the support and defence of such actions as they might be parties to, and the expenses they would incur in performing such duties as the laws imposed, as the erection of powder houses, providing ammunition, making and repairing highways and town roads, and other things of a like nature; which are necessary charges, because the effect of a legal discharge of their corporate duty. The erection of public buildings for the accommodation of the inhabitants, such as townhouses to assemble in, and market houses for the sale of provisions, may also be a proper town charge, and may come within the fair meaning of the term ‘necessary;’ for these may be essential to the comfort and convenience of the citizens. But it cannot be supposed that the building of a theatre, a circus, or any other place of mere amusement, at the expense of the town, could be justified under the term ‘necessary town charges.’ Nor could the inhabitants (in the absence of statutory authority) be lawfully taxed for the purpose of raising a statue or a monument, these being matters of taste, and not of necessity.” In *Westbrook vs. Deering*, 63 Me. 237, the court approved of *Stetson vs. Kempton*, 13 Mass. 272.

“The words ‘other necessary town charges,’ do not constitute a new and distinct grant of indefinite and unlimited power to raise money for any purpose whatsoever, at the will and pleasure of a majority. They only embrace all the incidental expenses arising directly or indirectly in the due and legitimate exercise of the various powers conferred by the

statute." (Opinion of the Justices of the Supreme Court of Maine, 52 Me. 598.)

The statutes (Chapter 3, Section 38) require persons charged with the expenditure of money of a town to "make a full detailed or written report of all their financial transactions in behalf of the town, . . . with a full account of the receipts and disbursements, . . . and to whom and for what purpose each item of the same was paid, with a statement in detail of the indebtedness and resources of the town." "Such reports, or like reports of town auditors, if printed, shall be distributed to the voters," etc. "Town clerks of the several towns, city clerks of the several cities, and treasurers of the several counties, shall promptly transmit to the librarian of the State library, copies of all reports of said towns, cities and counties, including all exhibits of town, city and county expenditures, provided, that the provisions of this section shall apply to printed reports only." (Laws of 1889, Chapter 283.)

SECTION 8. For notes on assessors, see title "Taxes," *post*.

For notes on overseers of poor, see title "Paupers," *post*.

"When by city charter definite bodies of persons, like the two branches of a city council, which meet often during the municipal year, are authorized and directed to elect an officer in concurrence in a certain month or at a certain time, and there is no prohibition in the charter against electing him at any other time, and the office is one which the charter plainly contemplates should be annually filled by a new election, we think that the provision that the election shall be held in a particular month, or at a particular time, must be regarded as directory." . . . "The essence of the thing to be done is that there should be an election, but the time relates only to the regular and orderly change of officers according to the scheme established by the charter." *Russell vs. Wellington*, 157 Mass. 105.

SECTION 9. For notes on this section, see title "Streets," *post*.

SECTION 10. Under Section 9 of the charter of 1832, which is similar to this section, the court held in *Green vs. Portland*, 32 Me. 432, that the licensing of an individual to occupy a part of the public street exclusively for his own benefit is not among the powers granted to the city council nor to the municipal officers, nor has the city any authority to grant the same. And if the city does grant a license "the license amounts to no more than an authority, so far as the city is concerned, to do the acts for their benefit and upon their own responsibility, with-

out being subject to interruption or complaint by the city." (Ib.) If the act amounts to a public nuisance, a license so granted is void, and the city has not only no right to grant a license, but it is the duty of the mayor to cause the nuisance to be abolished. R. S., Chapter 17, Section 5. In the case of *Cohen vs. New York*, 113 N. Y. 532, the city without authority granted a license to a grocer, on payment of a fee, permitting him to keep his delivery wagon standing in the street in front of his store night and day. It was held that the wagon so standing in the street constituted a public nuisance, and that the city was liable for damages resulting therefrom. See also *Irvine vs. Wood*, 51 N. Y. 224; 107 N. Y. 360. The public are not only entitled to a free passage along the street, but are entitled to a free passage over any portion of it they may choose to take, and no person has a right unreasonably or unnecessarily to impair that right. Wood on Nuisances, Section 260.

See also *Morton vs. Frankfort*, 55 Me. 46; *Jacobs vs. Bangor*, 16 Me. 187; *Perkins vs. Fayette*, 68 Me. 152.

In *Davis vs. Bangor*, 42 Me. 538, Chief Justice Tenney says: "If the street is suffered to be partially filled with wagons, to remain stationary, that their owners . . . may make sale of articles contained therein to customers, so that they constitute an impediment to the ordinary travel, it is difficult to perceive 'why the city would not be liable for an injury to a traveller,' etc. The case does not differ from that where booths are erected in the streets or upon a bridge in a city for the purpose of selling fruit or other articles, by the authority of the city, or with the knowledge of its officers, which erection is an essential obstruction to the travel."

SECTION 11. Now nine wards. See Chapter 11 of Laws of 1899, annexing Deering.

"No change made by the city council, in the limits of any city ward, shall be valid unless it is approved by a majority of the legal registered voters of such city, at the election of city officers, held next after such action of said council; and warrants for such ward meetings shall contain an article for that purpose." R. S., Chapter 3, Section 31.

Ward clerks hold their offices until their successors are chosen, 71 Me. 380. For additional acts relating to wards, see *Wards*, *post*.

SECTION 12. If an officer removes from the city, he ceases to be an officer of the city and his office thereby becomes vacant. *Barre vs. Greenwich*, 1 Pick. 134.

Chapter 384 of the Special Laws of 1901, amends this section so that these officers hold their offices from the second Monday in December, instead of March.

Opinion of William Pitt Fessenden, city solicitor, given in 1844, holds that if a majority of the board fail of election then the entire board of the year before holds over, but that when a majority of the new board is elected all the old board is officially dead, so that there can be no members of the old boards of aldermen or councilmen holding seats in the city government of any year. City Records, Vol. 5, page 318, citing *People vs. Jones*, 17 Wendall 81; *In Re Union Ins. Co.*, 22 Wendall 599.

Opinion of city solicitor presented to the city council and now on file in budget for March 21, 1898, holds that the city council may elect constables.

SECTION 13. Elections hereafter are to be held on the first Monday in December instead of the first Monday in March. See Chapter 384 of Public Laws of 1901.

At the meeting of the board of aldermen to canvass the vote the chairman of the board of aldermen presides.

The city council organize on the second Monday in December instead of second Monday in March. See Chapter 384 of 1901.

Unless the charter requires that the subjects to be acted on at a special meeting of the city council should be specified in the notice, the city council may transact any business which may be lawfully brought before the meeting, provided the meeting has been properly called. *Russell vs. Wellington*, 157 Mass. 105. *Whitney vs. New Haven*, 58 Conn. 450.

By unanimous consent, if every member be present at a special meeting, notice may be dispensed with and any extraordinary business within the peculiar province of such board may be transacted. Willcock on Municipal Corporations, Section 79.

Their unanimity is only necessary for entering upon the business, after which it may be transacted in the same manner as if the assembly had met upon proper notice. (Ib. Section 81.)

All the members of the board are presumed to have knowledge of the times for holding the stated meetings, and if any member fails to attend he voluntarily waives his right to participate in the business of the meeting, and is bound by whatever is done within the ordinary range of the duties of the board. Section 267, Beach on Municipal Corporations.

Where a stated meeting was adjourned to the next stated meeting without taking final action on a certain matter, and at a special meeting called and held during the interval, it was again taken up and disposed of by the unanimous consent of all the members of the board, the validity of the proceedings was sustained. *Douglass vs. County of Baker*, 23 Fla. 419; *People vs. Batcheldor*, 22 N. Y. 128.

The omission of notice is cured by the presence and consent of all members who were not properly notified, if the rights of third parties are not thereby impaired. (Ib.)

SECTION 15. The several islands within the city of Portland so far constitute two separate wards as to entitle the voters of each of said wards to choose a warden, ward clerk and one constable, who shall be residents of said islands and of their respective wards. The first of said wards comprises Long Island, Crotch (now Cliff) Island, Hope Island, Jewell's Island, and Little Chebeague Island, or such parts of said islands as are within the city of Portland, and the ward meetings of said first ward shall be held on Long Island. The second of said wards comprises the remaining islands within the city of Portland, and the ward meetings of said second ward shall be held on Peak's Island. The electors of each of said wards may meet as provided in Section 41 of Chapter 4 of the Revised Statutes of Maine and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

SECTION 16. Promises to reward an officer for that which without reward was his duty to do, are void. 5 Cushing 219.

For notes pertaining to the harbor, see Harbor of Portland, *post*.

For notes pertaining to boats, see Boats and Lighters, *post*.

For notes pertaining to fences, see Streets, *post*.

For additional powers see R. S. of 1883, Chapter 3, Section 59.

"The furnishing of amusement or entertainment to the public is not within the purposes for which municipal corporations are created by the Legislature. For this reason it is well settled that such corporations, unless they are expressly authorized by statute, have no power to furnish entertainments for their citizens, official visitors, or others; or to arrange for celebrations of any kind, at the expense of the corporation; not even when the proposed celebration is of a strictly public character and of national importance." *Law vs. People*, 87 Ill. 385; *Cornell vs. Guilford*, 1 Denio 510; *Hale vs. People*, 87 Ill. 72; *Hood vs. Lynn*, 1 Allen 103; *Hill vs. East Hampton*, 140 Mass. 381.

"Providing an entertainment for its citizens is no part of municipal self-government, and it has never been considered, where the common law has prevailed, that the power to do so pertained to the government in any of its departments." *Hodges vs. Buffalo*, 2 Denio 110; *New London vs. Brainard*, 22 Conn. 552; 10 Cush. 252; 1 Allen, 108; 12 R. I. 329.

SECTION 17. For additional duties of city clerk see "City Clerk," *post*.

SECTION 18. R. S. 1883, Chapter 3, Section 4, provides for calling of general meetings on petition of ten citizens. (Special laws conferring particular rights upon municipal corporations, are held not to be repealed by subsequent statutes, general in their character.) *Ottawa vs. County*, 12 Ill. 339; *States vs. Morristown*, 33, N. J. Law 57; *State vs. Cleland*, 68 Me. 258; *State vs. Donovan*, 89 Me. 448.

SECTION 19. "Shall expend the same for no other purpose than that for which it is appropriated" does not authorize the city council to appropriate money for any purpose other than that authorized by law. *Hooper vs. Emery*, 14 Me. 375.

SECTION 20. For additional duties of city treasurer see "Finance" and "Taxes," *post*.

SECTION 21. Plans of streets are deposited in the office of Commissioner of Public Works. See title "Streets," *post*.

SECTION 22. For notes on wharves, see Wharves, *post*.

SECTION 23. See also sections 1 and 2 of act additional to charter, Chapter 384 of Special Laws of 1870. See also title "Streets," *post*.

SECTION 24. For notes on drains and common sewers see title Drains and Sewers, *post*.

SECTION 25. Provisions of a statute, absolutely inconsistent with those of another statute subsequently enacted, are ordinarily regarded as repealed; but statutes cannot be repealed by implication, if the implication does not necessarily follow from the language used. *Pratt vs. Atlantic and St. Lawrence R. R. Co.*, 42 Me. 579.

A new statute, embracing all the provisions of previous statutes on the same subject, operates as a repeal of such antecedent enactments. *Knight vs. Aroostook R. R.*, 67 Me. 291.

When a statute is revised and parts are omitted in the revision, those provisions are not to be revived by construction. *Pingree vs. Snell*, 42 Me. 53; *Treat vs. Strickland*, 23 Me. 234.

Changes of phraseology, in a revision of a statute, will not change the law, unless the intention of the Legislature to change it is apparent. *John vs. Sabattis*, 69 Me. 473.

SECTION 26. Decision under similar provision, 118 Mass. 168, citing 112 Mass. 544.

# **LAWS OF THE STATE**

**RELATING TO MUNICIPAL MATTERS,**

**— AND —**

## **ORDINANCES OF THE CITY.**





## CHAPTER 1.

# RULES OF CONSTRUCTION.

SECTION 1. In the construction of ordinances the same rules shall be observed, so far as they may be applicable, as are provided in the Revised Statutes of this State, Chapter 1, Section 6, unless such construction would be inconsistent with the manifest intent of the city council, or repugnant to the context of the same ordinance.

I. Words and phrases shall be construed according to the common meaning of the language. Technical words and phrases, and such as have a peculiar meaning, convey such technical or peculiar meaning.

II. Words of the singular number may include the plural; and words of the plural number may include the singular. Words of the masculine gender may include the feminine.

III. Words giving authority to three or more persons authorize a majority to act, when the enactment does not otherwise determine.

IV. The words "annual meeting," applied to towns, mean the annual meeting required by law for choice of town officers.

V. The word "grantor" means the person who conveys a freehold estate or interest in land; and the word "grantee" the person to whom it is conveyed.

VI. The word "highway" may include a county bridge, county road or county way.

VII. The word "inhabitant" means a person having an established residence in a place.

VIII. The words "insane person" may include an idiotic, *non compos*, lunatic, or distracted person; but in reference to idiotic or *non compos* persons this rule does not apply to Revised Statutes, Chapter 143.

IX. The word "issue," applied to the descent of estates, includes all lawful lineal descendants of the ancestor.

X. The words "land or lands," and the words "real estate," include lands and all tenements and hereditaments connected therewith and all rights thereto and interest therein.

XI. The word "month" means a calendar month; and the word "year" a calendar year, unless otherwise expressed. The word "year," used for a date, means year of our Lord.

XII. The word "oath" includes an affirmation, when affirmation is allowed.

XIII. The word "person" may include a body corporate.

XIV. By the words "preceding" or "following," used with reference to a section, is meant the section next preceding or following that in which it is used, when not otherwise expressed.

XV. When the seal of a court, magistrate, or public officer is to be affixed to a paper, the word "seal" may mean an impression made on the paper for that purpose, with or without wafer or wax.

XVI. The words "United States" include territories and the District of Columbia. The word "state," used with reference to any organized portion thereof, may mean a territory or said district.

XVII. The word "town" includes cities and plantations, unless otherwise expressed or implied.

XVIII. The words "in writing" and "written" include printing and other modes of making legible words. When the signature of a person is required, he must write it or make his mark.

XIX. The word "will" includes a codicil.

XX. The words "sworn," "duly sworn," or "sworn according to law," used in a statute, record, or certificate of administration of an oath, refer to the oath required by the constitution or laws in the case specified, and include every necessary subscription to such oath.

XXI. When an act that may be lawfully done by an agent is done by one authorized to do it, his principal may be regarded as having done it.

XXII. When a person is required to be disinterested or indifferent in a matter in which others are interested, a relationship by consanguinity or affinity within the sixth degree according to the civil law, or within the degree of second cousins inclusive, except by written consent of the parties, will disqualify.

XXIII. The term "municipal officers" includes the mayor and aldermen of cities, the selectmen of towns, and the assessors of plantations.

XXIV. The words "State paper" mean the newspaper designated by the legislature, in which public acts, resolves, advertisements and notices are required to be published.

XXV. Abstracts of titles and chapters and marginal and other notes, are not legal provisions.

XXVI. Acts of incorporation shall be regarded in legal proceedings as public acts, and be in force on the date of their approval. All acts of incorporation granted since January first, eighteen hundred and ninety-three, become null and void in two years from the day when the same take effect, unless such corporations shall have organized and commenced actual business under their charters.

SECTION 2. The word "street" or "streets" shall be understood as including alleys, lanes, courts, public squares and public places, and it shall also be understood as including the sidewalks, unless the contrary is expressed, or such construction would be inconsistent with the manifest intent of the city council.

SECTION 3. The words "and" and "or" are convertible as the sense of a statute may require. (72 Me. 425.)

SECTION 4. The words "public grounds" shall include the promenades, parks, esplanades, and those parts of public places which do not form traveled parts of streets and highways.

SECTION 5. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, or joint tenant of the whole or of a part of such building or land.

SECTION 6. The word "tenant" or "occupant," applied to a building or land, shall include any person who occupies the whole or a part of such building or land either alone or with others.

## CHAPTER 2.

# AGENCY (LIQUOR).

(R. S., Chapter 27, Sections 21-27.)

### Statutes.

#### **Municipal Officers to Purchase Liquors — Powers of Agent — Term — Vacancies — Liquors to Be Bought of State Commissioner.**

SECTION 1. The selectmen of any town, and mayor and aldermen of any city, may, on the first Monday of May, annually, or as soon thereafter as convenient, buy such quantity of intoxicating liquors as is necessary to be sold under this chapter, and may appoint some suitable person agent of said town or city, who shall not be one of the municipal officers of said town or city, to sell the same at some convenient place therein, to be used for medicinal, mechanical and manufacturing purposes, and no other; such agent shall receive such compensation for his services, and in the sale of such liquors, shall conform to such regulations not inconsistent with law, as the board appointing him prescribes, and shall hold his situation for one year, unless sooner removed by them, or their successors. Vacancies occurring during the year shall be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors or in the profits of the sale thereof. He may sell intoxicating liquors to such municipal officers, to be by them disposed of in accordance with this chapter. By the provisions of Chapter 160 of the Public Laws of 1895 the liquor agency shall be supplied with liquors from the stock of the State liquor commissioner. (40 Me. 308; 42 Me. 307.; 48 Me. 553; 51 Me. 255; 67 Me. 61; 68 Me. 189.)

NOTE.—Such agent is not a city officer. His situation is not an office, but an employment, which ceases if not renewed at the end of the year. He does not hold over until his successor is appointed. *State vs. Weeks*, 67 Me. 69.

**Agent Shall Receive Certificate — Give Bond — Amount.**

SECTION 2. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes only; but it shall not be delivered to such agent until he has executed and delivered to said board a bond, with two sufficient sureties in the sum of six hundred dollars, in substance, as follows: "Know all men, that we, .....as principal, and .....and.....as sureties, are held and stand firmly bound to the inhabitants of the town (or city) of....., in the sum of six hundred dollars, to be paid to them, to which payment we bind ourselves, our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this.....day of ....., 19.... The condition of this obligation is such, that whereas the above bounden .....has been duly appointed an agent for such town (or city) to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes, and no other, until the..... of ....., 19...., unless removed from said agency; now, if said .....shall in all respects conform to the provisions of law relating to the business for which he is appointed, and to such regulations as are or shall be from time to time established by the board making the appointment, then this obligation shall be void; otherwise to remain in full force." (40 Me. 310; 50 Me. 79; 67 Me. 61.)

**Agent Not to Sell to Certain Persons — Notice.**

SECTION 3. No person authorized as aforesaid to sell intoxicating liquors, shall sell the same to any minor without the written direction of his parent, master or guardian, to any Indian, soldier, drunkard, intoxicated person, or to any person described in Section 4 of Chapter 67, as being liable to guardianship, knowing either of them to be of the condition herein prescribed; nor to any intemperate person, of whose habits he has been notified by his relatives, or by the aldermen, selectmen or assessors, of any city, town or plantation. And proof of notice so given by said officers or by their authority, is conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this chapter; and notice so given by the relatives of such person is presumptive evidence of such habits. (48 Me. 599.)

**Municipal Officers to Give Notice to Agent.**

SECTION 4. Whenever such municipal officers are informed by the relatives of any person that he is of intemperate habits, and are satisfied that such is the fact, they shall forthwith give notice thereof, to all persons authorized to sell intoxicating liquors within their respective towns, and in such adjoining places as they deem expedient.

**Agent Violating Law — How Punished — Agency Revoked.**

SECTION 5. Any person, authorized as aforesaid, who violates Section 33 shall be fined twenty dollars for every such offence, and shall also be liable, notwithstanding such punishment, to a suit upon his bond; and the aldermen, selectmen or assessors, of the city, town or plantation to which such bond was given shall cause the same to be sued and prosecuted to judgment and satisfaction in behalf of the city, town or plantation. The court by which judgment is rendered upon any bond required by this chapter, has such chancery powers therein, as the Supreme Judicial Court has in cases of forfeiture of penalties to the State. Whenever such a conviction is obtained or judgment recovered as aforesaid, the authority of such person to sell intoxicating liquors is vacated; and such aldermen, selectmen or assessors, shall revoke such authority whenever they are satisfied of the violation of any of its conditions.

**Liquor Casks and Vessels to Be Marked.**

SECTION 6. No such liquors owned by any city, town or plantation, or kept by any agent thereof, as provided by law, are protected against seizure and forfeiture, under the provisions thereof, by reason of such ownership, unless all casks and vessels in which they are contained are at all times conspicuously marked with the name of such municipality, and of its agent. When such liquors are seized, bearing such marks as are herein required, if such liquors are in fact not owned by any such municipality, such false and fraudulent marking is conclusive evidence that the same are kept or deposited for unlawful sale and renders them liable to forfeiture under this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious; and the same shall not be protected from seizure and forfeiture by reason of being kept for sale by such agent, if they have knowledge that the same are adulterated or factitious. (48 Me. 599; 68 Me. 190.)

**Agent Convicted, Disqualified.**

SECTION 7. If an agent appointed under Section 21 to sell intoxicating liquors is convicted of a violation of this chapter, he is forever thereafter disqualified from holding such office. (6 Me. 412; 10 Me. 438; 80 Me. 80; 86 Me. 522.)

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ORDINANCES.

**Money Received to Be Paid to City Treasurer.**

SECTION 1. All moneys received by the city agent for the sale of intoxicating liquors, by virtue of his office, either from sale of liquors or from any other source, shall be by him paid over to the city treasurer, at the end of each week, during his term of office.

**Treasurer to Receipt.**

SECTION 2. The city treasurer shall receipt for the money so received, and shall keep a separate account with said liquor agency, in which all the moneys so received shall be credited, and all sums expended under the provisions of the following section of this ordinance shall be charged.

**Receipts — How Appropriated — Committee to Examine Bills.**

SECTION 3. The moneys so received are hereby appropriated, so far as required, for the purchase of liquors and to defray the expenses of said agency, and for other purposes connected therewith, but they shall not be paid out of the city treasury until the bills therefor have been examined and approved by the committee on the agency for the sale of intoxicating liquors, and by the mayor.

**Disposal of Surplus.**

SECTION 4. Any balance or surplus of said moneys remaining in the treasury after the disbursements and expenditures mentioned in the preceding section, shall stand to the credit of said agency until otherwise disposed of by the city council, and shall not constitute any portion of the sinking fund.



## RULES AND REGULATIONS OF THE BOARD OF MAYOR AND ALDERMEN.

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ADOPTED JUNE 2, 1902.

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### **Inventory of Liquors to Be Made.**

SECTION 1. The committee on agency and sale of intoxicating liquors shall cause an inventory to be made on the first Monday of May of each year, showing the kind, quantity and cost of all goods in their charge. Such inventory shall be made in duplicate, and one copy shall be deposited with the city auditor and the other placed on file in the agency.

### **Certain Records to Be Made.**

SECTION 2. The committee shall cause to be kept true and accurate books of account, showing the date, kind, quantity and price of each purchase of liquor, or other property made by them, or under their direction, also showing the date, kind, price and quantity of each sale of liquor, the full name of the person to whom, and purpose for which such sale is made; also an account of all sales made of such other property as may be in their charge.

### **Money to Be Paid to City Treasurer Weekly.**

SECTION 3. They shall cause the agent to bring down the footings of such books so as to exhibit the total amount and kind of liquor sold each day, the amount received from such sales, and shall require the agent to pay over to the city treasurer the amount of cash so obtained, at least once in each week, as required by the ordinances.

### **Sale to Certain Persons Forbidden.**

SECTION 4. No sales of liquor of any kind shall be made to minors, or to such other persons as is forbidden by the laws of the State.

**No Credit to Be Given.**

SECTION 5. No credit shall be given in the sale of liquor or other property belonging to the city and connected with the Agency.

## **CHAPTER 3.**

# **AMUSEMENTS.**

(Revised Statutes, Chapter 29.)

### **Statutes.**

#### **Penalty for Exhibiting without License.**

SECTION 1. Whoever for money or other valuable article, exhibits any images, pageantry, sleight of hand tricks, puppet show, circus, feats of balancing, wire dancing, personal agility, dexterity, or theatrical performances, without a license therefor as hereinafter provided, forfeits, for every offence, not more than one hundred, nor less than ten dollars; but this prohibition does not extend to any permanently established museum. (See also Ch. 25, Sec. 12, R. S.)

#### **Licenses, How Granted — Fee.**

SECTION 2. The municipal officers of towns may grant licenses for any of the foregoing exhibitions or performances therein, on receiving for their town such sum as they deem proper; twenty-four hours being allowed for each exhibition or performance; and they shall prosecute, by action of debt, in the name and for the use of their town, all violators of the preceding section.

#### **Bowling Alleys and Billiard Rooms — License.**

SECTION 3. Whoever keeps a bowling alley, pool, bagatelle or billiard room without a license, forfeits to the prosecutor ten dollars for each day that such alley or room is so kept, to be recovered upon complaint or by indictment. (30 Me. 74.)

#### **Licenses, How Granted — License Fee, \$10.00.**

SECTION 4. Municipal officers of towns may license suitable persons to keep bowling alleys, pool, bagatelle and billiard rooms therein, in any place where it will not disturb the peace and quiet of a family, for which the person licensed shall pay ten dollars to such town; such

licenses expire on the first day of May after they are granted, unless sooner revoked. (29 Me. 457.)

### **Keepers of Alleys to Give Bond — Conditions.**

SECTION 5. Every person so licensed shall, at the time he receives his license, give bond to the town with two good and sufficient sureties, in not less than one hundred dollars, conditioned that he will not permit gambling or drinking of intoxicating liquors in or about his premises; or any minor to play or roll therein without the written consent of his parent, guardian or master; or his alley, pool, bagatelle, or billiard room to be opened or used between ten o'clock in the evening and sunrise. (See Section 8.)

### **License to Be Revoked if Bond Violated.**

SECTION 6. On proof that any person, so licensed, has violated any conditions of his bond, said officers shall revoke his license and enforce payment of his bond to their town; and no such person shall afterwards be licensed therein for such purpose.

### **Penalties — Officer May Enter to Enforce Law.**

SECTION 7. The keeper of any bowling alley, pool, bagatelle or billiard room who violates section five, forfeits ten dollars for the first offence, and twenty dollars for each subsequent offence; and any marshal, sheriff, police or other officer, may at any time enter said alley, pool, bagatelle or billiard room or rooms connected therewith, to enforce this or any other law, and whoever obstructs his entrance, forfeits not less than five nor more than twenty dollars. The penalties provided in this section may be recovered by complaint, indictment, or action of debt, to the use of the prosecutor. (30 Me. 78; 30 Me. 65.)

### **Bowling Alley May Be Kept Open until Midnight, When.**

SECTION 8. Any person licensed to own, keep and operate a bowling alley or bowling alleys in this state, under the provisions of Chapter twenty-nine of the revised statutes, may be granted permission by the municipal officers of the town or city where such alley or alleys are situated, to keep the same open to the public until midnight, when in the opinion of such municipal officers no person or persons residing in the immediate neighborhood will be disturbed thereby. (Ch. 194 of 1901.)

**Skating Rinks, Licenses for — Fee — Penalty.**

SECTION 9. Every person who keeps a roller skating rink or room, shall obtain a license from the municipal officers of the city or town where such rink is located, and shall pay therefor such sum as said municipal officers may deem proper. Any person keeping a roller skating rink without such license, shall be fined ten dollars for each day it is so kept, to be recovered by complaint, indictment, or action of debt, to the use of the prosecutor. (Chapter 338 of 1885.)

**Hours for Closing Rinks — Penalty.**

SECTION 10. Every person so licensed shall keep such rink closed between ten o'clock in the evening and sunrise, unless permission in writing to keep it open a longer time is obtained from the municipal officers of the city or town where such rink is located. Any person violating this section, shall be fined ten dollars for every such offence, to be recovered as provided in the preceding section. (Chapter 338 of 1885.) 79 Me. 99.

**Merry-Go-Round — Steam Riding-Galleries — License — Penalty.**

SECTION 11. Any person who desires to operate or run a merry-go-round or steam riding gallery, in any town, shall first procure a license therefor from the selectmen of such town, who are hereby authorized to grant such license if they see fit. The sum to be paid for such license shall not be more than fifty dollars.

Any person who operates or runs a merry-go-round or steam riding gallery in any town, without first procuring a license therefor, as provided in Section 1 of this Act, shall be fined five dollars for each and every day that he operates or runs his merry-go-round or steam riding gallery without such license.

Trial justices, police courts and municipal courts shall have jurisdiction of all offences arising under this Act. (Chapter 59 of 1899.)

**Immoral Exhibitions — Penalty.**

SECTION 12. Whoever in connection with any show or entertainment, whether public or private, either as owner, manager or director, or in any other capacity, uses or causes or permits to be used, a phonograph or other contrivance, instrument or device, which utters or gives forth any profane, obscene or impure language, shall be punished by a

fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Whoever as owner, manager, director, agent, or in any other capacity, prepares, advertises, gives, presents or participates in any obscene, indecent, immoral or impure show or entertainment, or in any show or entertainment manifestly tending to corrupt the morals of youth, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment. (Chapter 105 of 1899.)

### **Vitascope, Etc. — Prize Fights — Penalty.**

SECTION 13. Any person exhibiting publically any photographic or other reproduction of a prize fight shall be punished by a fine not exceeding five hundred dollars. (Chapter 309 of 1897.)

(For statutes relating to pigeon shooting, cock fights, dog fights, bull fights, etc., see Chapter 124, Sections 30, 31, 32, 33 and 34 of Revised Statutes. For statutes relating to prize fights, see Chapter 123, Sections 4 and 5 of Revised Statutes.)

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## **RULES AND REGULATIONS OF THE BOARD OF MAYOR AND ALDERMEN.**

*Pertaining to Licenses, under Chapter 29 of the Revised Statutes of Maine.*

(ADOPTED JUNE 14, 1901.)

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### **Licenses Subject to Conditions.**

SECTION 1. All licenses granted by the board of mayor and aldermen by virtue of the provisions of Chapter 29 of the Revised Statutes of Maine, shall be subject to the terms, regulations and conditions contained in the following sections, and to such other regulations and conditions as said board may, from time to time, adopt; and any violation thereof will be deemed sufficient cause for the revocation of such licenses.

### **Applications to Be in Writing — Notice to Be Given to City Marshal.**

SECTION 2. All applications for licenses shall be in writing and signed by the applicant or his agent and shall state the purpose, the time, and the place for which said license is requested. When a license

under this chapter shall have been granted by the board of mayor and aldermen, the city clerk shall immediately notify the city marshal or either of the deputy marshals of the particulars thereof. The city clerk may issue to the applicant a certificate setting forth the terms and conditions of the license granted.

### **Fees.**

SECTION 3. The following fees shall be charged for licenses for the purposes named in Chapter 29, Section 1 of the Revised Statutes of Maine:

*Theatrical Performances.* For a license covering one performance, the fee shall be one dollar; for a license covering performances for a term not exceeding six days, the fee shall be two dollars; for a license covering performances for a term exceeding six days and not exceeding twelve days, the fee shall be three dollars; for a license covering a period of more than twelve days and not exceeding one theatrical season, the fee shall be twenty-five dollars. All licenses for a theatrical season shall expire on the first day of May next after the date of the license.

*Circuses.* For a license for any circus having two or more rings, the fee shall be one hundred dollars for one day, or one hundred and fifty dollars for two or more days. All large single ring circuses shall pay fifty dollars for one day, or seventy-five dollars for two days.

*Steam Galleries and Merry-go-rounds.* All steam galleries and merry-go-rounds shall pay six dollars per month.

### **Fees Paid in Advance.**

SECTION 4. All fees shall be paid to the city clerk before the performance or exhibition shall take place. The city clerk shall each month pay over to the city treasurer all license fees received from licenses under Chapter 29 of the Revised Statutes of Maine.

### **Licensee Shall Maintain Good Order—Special Policemen.**

SECTION 5. Every person obtaining a license under said Chapter 29, shall keep good order in and about his theatre, hall, exhibition, show, or other place of public amusement, and at his own expense shall keep a sufficient force of special policemen for that purpose.

## CHAPTER 4.

# ARMORY.

(R. S., Chapter 3, Section 43.)

### Statutes.

#### **Municipal Officers to Provide Armory—Allowance by State.**

SECTION 1. Municipal officers shall provide for each company of the national guard located within the limits of their respective towns, subject to the approval of the commander-in-chief or such officer as he may designate, a suitable drill room and armory or place or deposit for the arms, equipments and other property furnished by the State. They shall also provide suitable rooms for the headquarters of each separate battalion, regiment or brigade established within their limits, and a reasonable compensation for the rent thereof, not exceeding one hundred dollars per annum, may be allowed to the town so furnishing, and paid by the State. And there may be also allowed and paid by the State for the rent of quarters occupied by each authorized band legally enlisted and mustered into the service, not exceeding one hundred dollars, and said quarters shall always be subject to all provisions of law and regulations which apply to armories, and such drill rooms, armories, headquarters or other places provided for in this section shall be held for the exclusive use of the national guard unless otherwise authorized by the commander-in-chief after application in each case by the municipal authorities in writing. If said premises are used contrary to the provisions hereof, there shall be a deduction from the rent of the premises agreed upon, equal to one month's rental for each day of such use. (76 Me. 28.)



## **CHAPTER 5.**

# **ASSEMBLIES (PUBLIC).**

### **Statutes.**

#### **Meetings of Citizens — How Warned — Record of Proceedings.**

SECTION 1. General meetings of the citizens qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the Constitution of this State; and such meeting shall be duly warned by the mayor and aldermen upon the requisition of sixty qualified voters. The city clerk shall act as clerk of such meetings, and shall record the proceedings upon the city records. (City Charter, Section 18.)

#### **Disturbance of Public Assemblies — How Punished.**

SECTION 2. Whoever by rude and indecent behavior, or in any way wilfully and unlawfully, disturbs or interrupts any public meeting, or any assembly, lawfully gathered in a hall or other place of meeting, or creates a disturbance in any hall, walk or corridor adjacent or leading to the room where such meeting or assembly is held, shall be punished by imprisonment for not more than thirty days, or by fine of not less than five nor more than ten dollars. (R. S., Chapter 124, Section 25.)

(For statutes relating to unlawful assemblies, suppression of riotous assemblies, etc., see Chapter 123 of Revised Statutes.)

(For statutes relating to disturbances of public primary political meetings, caucuses and conventions, see Chapter 58 of the laws of 1887.)

## **ASSESSORS.**

(See Taxes.)

## **AUSTRALIAN BALLOT.**

(See Election.)

## **CHAPTER 6.**

# **AUCTIONS AND AUCTIONEERS.**

(Revised Statutes, Chapter 34.)

### **Statutes.**

#### **Licenses — Fee.**

SECTION 1. The municipal officers of any town may license any legal voter thereof, by a writing under their hands, to be auctioneer for one year, in every town in their county; and shall record every such license in a book kept by them for that purpose. Upon receipt of such license such auctioneer shall pay two dollars to the treasurer of said licensing town for said town, and may be exempted from the deduction of two and one-half per centum from the gross amount of the sales provided in Section 3. (4 Me. 333; 4 Me. 263; 25 Me. 142; 38 Me. 311; 43 Me. 160; 53 Me. 394.)

#### **If License Refused Applicant May Appeal to County Commissioners.**

SECTION 2. If such officers, after written application to them for a license, unreasonably refuse or neglect to grant it, the applicant, by giving them ten days' notice and a bond to pay all costs arising thereafter, may appeal to the county commissioners, who, after a hearing of the parties, may grant the license if they judge it reasonable.

#### **Account of Goods Sold Must Be Kept—Tax on Goods of Non-residents—Penalty.**

SECTION 3. Every person licensed shall keep a fair and particular account of all goods and chattels by him sold, stating of whom received and the price for which the same were sold; and unless otherwise authorized, if said goods are sold, voluntarily for the benefit of parties residing out of the State, he shall deduct two and one-half per centum from the gross amount of the sales for the use of the town where the sale is made, and pay the same to the treasurer thereof within ten days after the sale; and in default thereof, he shall be fined not less than

fifty nor more than three hundred dollars, and shall forfeit his license. (53 Me. 394.)

**Persons Who Are Not Voters Cannot Act under Auctioneer — Penalty.**

SECTION 4. No auctioneer shall allow any person, not a legal voter in the town from which he received his license, to act for or under him in any sales at public auction, under penalty of fifty dollars for each offence; and any person so acting is subject to the same penalty. (4 Me. 333.)

**Receiving Goods from Minors or Servants — Penalty — Not to Sell after Sunset Unless by Special License.**

SECTION 5. If an auctioneer receives goods for sale at public auction, of any servant or minor, knowing him to be such, or sells goods, before sunrise or after sunset, at public auction, he forfeits not less than fifty nor more than one hundred and seventy dollars for each offence; but the municipal officers of any town may license any duly licensed auctioneer specially, to sell after sunset upon payment of a sum not exceeding twenty dollars.

**Real Estate Lying in Two Towns — How Sold.**

SECTION 6. A parcel of real estate lying partly in one town and partly in another, may be sold by the auctioneer of either, but if an auctioneer sells or offers to sell real or personal property at public auction in any other towns than those authorized by his license, he forfeits not exceeding six hundred dollars.

**When Tenant or Occupant of Building Liable — Penalty.**

SECTION 7. If a tenant or occupant of any building, having actual possession and control thereof, knowingly permits any person to sell any goods or chattels at public auction contrary to this chapter, in such building, or in any apartment, or yard appurtenant thereto, he forfeits not more than six hundred nor less than one hundred dollars.

**Exceptions as to Sales by Officers.**

SECTION 8. Nothing in the preceding sections extends to sales made by sheriffs, deputy sheriffs, coroners, constables, tax collectors, executors or administrators, or any other person authorized to sell goods, chattels, or lands, by order of any court or judge of probate.

**Fines—How Recovered and Appropriated.**

SECTION 9. All fines imposed by this chapter may be recovered by indictment; and it is the special duties of city marshals and their deputies, sheriffs, constables and police officers, to make immediate complaint for every offence against the provisions hereof; half of all fines shall be for the prosecutor, and half for the town where the offence is committed.

**License to Sell on Invoice—Hours—Fee.**

SECTION 10. The municipal officers of any city or town, may, upon presentation of an invoice or inventory of the property to be sold, which shall be produced unless said municipal officers decide that the same is unnecessary, grant a special license to any auctioneer, a voter in the state, to sell at public auction, between the hours of seven in the forenoon and six in the afternoon, upon payment to such city or town of five dollars for each invoice or inventory.

**Blooded Animals—How Auctioned.**

SECTION 11. Any person, employed by the owner of blooded animals, may sell the same as auctioneer at public auction, whether licensed by municipal officers or not. (Chapter 159 of 1893.)

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**ORDINANCE.****Sale Not to Be Held in Streets.**

SECTION 1. No person shall sell, or expose for sale at auction, any goods, wares, chattels, or other merchandise, in any street, alley, square, or other public place, or on any sidewalk in the city, except in such places as may be assigned by the mayor and aldermen for that purpose. And the mayor and aldermen are hereby authorized to assign such places for the purpose of selling goods at auction, as they shall think expedient.

**Penalty.**

SECTION 2. Any person who shall offend against the provisions of this ordinance, shall forfeit and pay a sum of not less than five, nor more than twenty dollars.

## **CHAPTER 7.**

# **BACK COVE AND FORE RIVER.**

(Chapter 123 of 1887.)

### **Lands Ceded to City.**

SECTION 1. All the lands, flats, shores and rights in tide waters, belonging to the State, at Back Cove and Fore River in Portland Harbor, are hereby ceded to the City of Portland.

### **Mayor to Appoint Commissioners.**

SECTION 2. The mayor of the City of Portland may appoint, subject to the approval of the board of aldermen, a board of three commissioners, citizens of said city, who shall have full charge and control in behalf of the City of Portland, of all the lands, flats, shores and rights ceded to said city by the first section of this Act.

### **Term of Office.**

SECTION 3. At the first appointment under this Act, the commissioners shall be appointed for three, four and five years respectively; and thereafter, at the expiration of each term, one shall be appointed to hold for the term of five years.

### **Power of Mayor to Remove — Vacancies.**

SECTION 4. The mayor, with the advice and consent of the aldermen, after hearing and for cause shown, may remove a commissioner during his term. Vacancies in the board of commissioners shall be filled by appointment of the mayor and approval of the aldermen.

### **Bond of Commissioners — Compensation.**

SECTION 5. Each commissioner shall give bond to the city for fidelity in office, in such sum and with such sureties as the mayor and aldermen of Portland shall approve, and shall receive such compensation for his services as the mayor and aldermen shall determine.

**Powers of Board — Procedure — Damages, How Settled.**

SECTION 6. Said board of commissioners shall have power, by purchase in the name and behalf of the City of Portland, to acquire any other lands and rights at said Back Cove and Fore River, for the purpose of completing the public improvements authorized by this Act, and also to take the same in the exercise of the right of eminent domain, for the purpose of abating a public nuisance and preserving the public health and for other public purposes. The method of procedure in taking private property, above or below high-water mark, for public purposes under this Act, and in recovering compensation therefor, shall be substantially the same as that provided in the ninth section of the charter of the City of Portland, for taking lands for streets or public ways. In proceedings under this Act, the said board of commissioners shall take the place and Act instead of the joint standing committee of the two boards of the city council, and shall also have the full powers conferred upon the city council itself, by the ninth section of the city charter. The commissioners may settle by agreement or by arbitration the amount of damage sustained by any person in his property, by reason of the taking of any lands, flats or rights as aforesaid.

**Commissioners to Have Control of Lands — Dredging — Dumping.**

SECTION 7. All the property ceded to the City of Portland by this Act, or subsequently acquired by it under the terms of the preceding section, shall be under the general charge, control and management of the commission thereby created, and the commissioners may dredge, fill, improve, occupy, lease or sell the same, subject to the authority of the United States government and of any Act of Congress. Said commissioners may make all lawful contracts to promote the objects of the commission. Said commission may provide a dumping ground or place of deposit for any material dredged within the limits of Portland Harbor. Any person who shall remove by dredging any material from within the harbor limits, shall be obliged to deposit the same where directed by said commission, provided the same dumping ground or place of deposit is within four miles of said city, and no objection is made to it by the United States engineer in charge of work in Portland Harbor. This requirement shall not apply to dredging done by authority of the United States government.

**City May Issue Bonds to Aid Public Improvements.**

SECTION 8. To provide means for carrying on the public improvements hereby authorized, and thereby removing the danger to the public health, arising from the polluted condition of said flats, the City of Portland is authorized, whenever the same can be done consistently with the constitutional limitation upon municipal indebtedness, to issue its bonds to an amount not exceeding one hundred thousand dollars, payable within a period not exceeding twenty years. The bonds shall be issued as the city council shall direct, shall be negotiated by the city treasurer, under the direction of the mayor, and the proceeds thereof shall be delivered to the commissioners hereby appointed, upon their warrant, when required for the purposes of the commission.

**Sinking Fund Established to Pay Bonds — Investment of.**

SECTION 9. To provide for the payment of the bonds issued under this Act, a sinking fund shall be established, to be under the direction of said commissioners. All moneys received from the income of leases, or sales of property, and all other moneys received by said commissioners, except from the proceeds of the bonds hereby authorized to be issued, shall be placed to the credit of said sinking fund. The commissioners shall, from time to time, invest the moneys on hand securely, so that they shall be productive; and the same may be invested in the bonds issued under this Act, or in any other bonds of the City of Portland, or of the State of Maine, or of the United States, which securities shall be held for the increase of the sinking fund. The commissioners may, from time to time, sell and transfer any of said securities.

**City Treasurer to Have Care of Money and Bonds.**

SECTION 10. The city treasurer shall have the care and custody of all moneys received from the sale of bonds, and shall be responsible on his official bond for their safe keeping. He shall also have the care and custody of, and be responsible for, all the securities of the sinking fund. He shall pay out said moneys only upon the warrant of the commissioners.

**Excess of Accumulations, How Appropriated.**

SECTION 11. Whenever the accumulations of said sinking fund shall be in excess of the amount required for the redemption of said

bonds, the city council of Portland may appropriate such excess to the objects of the commission hereby created, or to any lawful municipal purpose.

**City May Raise Money by Taxation instead of Bonds.**

SECTION 12. Instead of issuing bonds, the city council of Portland may make appropriations, from moneys raised by municipal taxation, for the same purposes for which the bonds of said city are by this Act authorized to be issued, to be paid to said commissioners by the city treasurer upon their warrant as hereinbefore provided, in regard to the proceeds of said bonds; and in that event, all moneys received by said commissioners from the lease or sale of real estate, or from whatever source, shall be paid directly into the treasury of the City of Portland.

**Authority of Harbor Commissioners Not Limited by This Act.**

SECTION 13. Nothing contained in this Act shall have the effect to modify or limit the authority of the harbor commissioners of Portland.



## **CHAPTER 8.**

# **BOATS AND LIGHTERS.**

### **Statutes.**

#### **City Council May Make Regulations Respecting Boats, etc.**

SECTION 1. The city council may require all sail boats not under register or license, kept for hire in the harbor, to be examined and licensed for that purpose, and to be furnished with air-tight compartments; and may establish such regulations respecting such boats as they may deem expedient. (City Charter, Section 16.)

#### **Boats Carrying Stone, etc., to Be Marked**

SECTION 2. Every boat or lighter employed in carrying stones, sand, or gravel, shall be marked at light water mark, and at least at five other places, with figures four, twelve, sixteen, twenty-four, and thirty, legibly made on the stem and stern post thereof, expressing the weight such boat or lighter is capable of carrying, when the lower part of the respective numbers touch the water in which it floats; and such marks shall be inspected yearly, and when found illegible in the whole or in part, they shall be renewed. (R. S., Chapter 36, Section 18.)

#### **Fine for Unmarked Boats.**

SECTION 3. The master or owner, who uses his craft without such marks, and any person, who falsely marks any such boat or lighter, forfeits fifty dollars, to be recovered by any prosecutor in an action of debt. (R. S., Chapter 36, Section 19.)

#### **Municipal Officers to Appoint Inspectors — Fees.**

SECTION 4. The municipal officers of every town, where boats and lighters are employed for the purposes aforesaid, shall annually, in April or May, appoint some suitable person who shall be sworn, to examine and ascertain the capacities of all such boats and lighters, and mark them as above prescribed; and said officers shall establish and regulate the fees therefor. (R. S., Chapter 36, Section 20.)

**Capacity Altered, to Be Remarked.**

SECTION 5. When such inspector thinks that the burden or capacity of any such boat or lighter is altered by repairs or otherwise, he shall forthwith ascertain the same anew, and mark it accordingly. (R. S., Chapter 36, Section 21.)

**Penalty for Throwing Ballast in Harbor.**

SECTION 6. No master of any vessel shall throw overboard ballast in any road, port, or harbor, under penalty of sixty dollars; and no person shall take any stone or other ballast from any island, beach, or other land, without consent of the owner, under a penalty not exceeding seven dollars for each offence, to be recovered in an action of debt by any prosecutor, half for himself, and half for the town where the offence is committed. (R. S., Chapter 36, Section 22.)

## **CHAPTER 9.**

# **BOUNDARY LINES.**

### **Statutes.**

#### **Perambulations — Proceedings Respecting.**

SECTION 1. Lines between towns shall be run once every five years, except as mentioned in the two following sections.

The municipal officers of the oldest town shall give ten days' notice in writing to such officers of the adjoining towns of the time and place of meeting for perambulation; and the officer who neglects to notify or attend in person, or by substitute, forfeits ten dollars, two-thirds to the use of the town which complies with its duty, and one-third to any two or more of said officers of the town complying, to be recovered within two years after the forfeiture is incurred; and the proceedings of such officers, after every such renewal of boundaries, shall be recorded in their town books. (R. S., Chapter 3, Section 65.) 56 Me. 30.

#### **Monuments May Be Erected at Angles.**

SECTION 2. Towns which, since March twenty-two, eighteen hundred and twenty-eight, have perambulated, or shall perambulate their lines as by law prescribed, and set up stone monuments, at least two feet high, at all the angles, and where the lines cross highways, or on or near the banks of all rivers, bays, lakes or ponds, which said lines cross, or which bound said lines, are exempt from the duty of perambulating said lines, except once every ten years, commencing in ten years from the time that the stone monuments were so erected. (R. S., Chapter 3, Section 66.)

#### **Disputed Lines of Towns, How Settled.**

SECTION 3. When a town petitions the Supreme Judicial Court, stating that a controversy exists between it and an adjoining town respecting a town line, and praying that it may be run, the court, after

due notice to all parties concerned, may appoint three commissioners, who shall, after giving notice of the time and place of meeting, to all persons interested, ascertain and determine the lines in dispute, and describe them by courses and distances, and make, set, and mention in their return, suitable monuments and marks for the permanent establishment thereof, and make duplicate returns of their proceedings; one of which shall be returned to the court, and the other to the office of the secretary of State; and such lines shall be deemed in every court and for every purpose the dividing lines between such towns. (R. S., Chapter 3, Section 67.) 53 Me. 325; 65 Me. 201; 66 Me. 354; 70 Me. 179; 75 Me. 329; 76 Me. 28; 84 Me. 178; 89 Me. 212.

### **Boundaries of the Town of Portland.**

SECTION 4. By Act of the general court of Massachusetts, passed July 4, 1786, incorporating the Town of Portland, the boundaries of said town were described as follows, viz.: Beginning at the creek that runs into Round Marsh, so called, thence northeast to Back Cove Creek, thence down the middle of that creek to Back Cove, thence across said Cove to Sandy Point, thence round by Casco Bay to Fore River,<sup>1</sup> thence up Fore River to the first bounds, together with all the Island that now belong to the first parish in said Falmouth; and by section ninth of the same Act, it was further enacted, that a certain tract of land within the limits of the Town of Portland, and containing about one hundred and eighty acres, belonging to Samuel Dean, Joshua Freeman and Elizabeth Wise, and which descended to them from Moses Pearson, Esq., late of Falmouth, deceased, be annexed to the Town of Portland, and shall be considered as part thereof, and the lands granted to the first parish, in said Falmouth, for the support of the ministry there, are hereby annexed to said Town of Portland, and shall be considered as part thereof.

(<sup>1</sup> See Act, locating a bridge across Fore River by which the limits of the City of Portland are extended, *post.*, title "Vaughan's Bridge.")

### **Annexation of Part of Westbrook to Portland.**

SECTION 5. The southern half of that part of the old county road running northwardly from the City of Portland, which has the Town of Westbrook on the easterly side, and the City of Portland on the westerly side, is hereby set off from the Town of Westbrook, and annexed to the City of Portland. (P. L. of 1845, Chapter 279.)

**Boundary Line between Portland and Deering.**

SECTION 6. The boundary line between the City of Portland and the Town of Deering, as run by W. A. Goodwin, City Engineer of the City of Portland, is as follows:

Beginning at center of channel of Back Cove at Deering's bridge; thence westerly through center of said channel to east line of old county road, now Grove street; thence northwesterly by the easterly line of said road a distance of fifteen hundred thirty-three and fifty-six hundredths (1,533.56) feet, to a stone monument; thence at right angles from the easterly to the westerly side line of said old county road, a distance of forty-nine and one-half ( $49\frac{1}{2}$ ) feet, to a stone monument; thence northwesterly on the westerly side line of said road, a distance of fifteen hundred and thirty-three and fifty-six hundredths (1,533.56) feet to a stone monument; thence with an included angle to westward of one hundred nineteen degrees, eighteen minutes ( $119^{\circ} 18'$ ) a distance of twelve hundred seventy-eight and six tenths (1,278.6) feet to a stone monument; thence southerly with an included angle of forty-one degrees, ten minutes ( $41^{\circ} 10'$ ) a distance of five hundred thirty and nine-tenths (530.9) feet, to a stone monument; thence southwesterly with an included angle of one hundred eight degrees, thirty-seven minutes ( $108^{\circ} 37'$ ), a distance of twenty-seven hundred twenty and three-tenths (2,720.3) feet, to a stone monument, standing on the easterly side line of the county road at "Libby's Corner;" thence southeasterly with an included angle of eighty-eight degrees, thirty-nine minutes ( $88^{\circ} 39'$ ), a distance of nine hundred twenty-two and one-tenth (922.1) feet, to a stone monument; thence southwesterly with an inclined angle of seventy-seven degrees, four minutes ( $77^{\circ} 4'$ ), a distance of one hundred and seventy-nine and ninety-two hundredths (179.92) feet, to a stone monument on the easterly side line of the county road last named; thence southwesterly with an angle northward of two degrees, eighteen minutes ( $2^{\circ} 18'$ ), a distance of seventy-two and four-tenths (72.4) feet to a stone monument; thence southwesterly with an angle to northward of three degrees, fifty-one minutes ( $3^{\circ} 51'$ ), a distance of forty-three and eighty-five hundredths (43.85) feet to a stone monument; thence southwesterly with an angle to southward of thirteen degrees, nineteen minutes ( $13^{\circ} 19'$ ), a distance of one hundred thirty-six and six-tenths (136.6) feet, to a stone monument, thence southwesterly with an included angle of one hundred sixty-five degrees, forty minutes ( $165^{\circ} 40'$ ), a

distance of ten hundred ten (1,010) feet to an iron rod standing in canal basin; thence southerly with an angle to northward of twenty-six degrees, forty-four minutes ( $26^{\circ} 44'$ ), a distance of four hundred and fifty (450) feet, to a stone monument standing in the old tow path of said canal basin; thence same course to center of channel of Fore River.

(See plans in city engineer's office, City Engineer's Report of year 1878-9, also City Records, vol. 18, p. 452.)

### **Boundary Line between Portland and Cumberland.**

SECTION 7. The boundary line between the city and the Town of Cumberland, within limits of Casco Bay, has also been run, crossing Little Chebeague, Crow, Hope, Crotch and Jewell's Islands. The work was completed too late in the season for the settling of monuments on the line. The line should be permanently marked and legally perambulated without unnecessary delay. (City Engineer's Report, 1878-9; see also City Records, 1878.)

(This work has not been completed.)

### **Boundaries of Deering.**

SECTION 8. All that part of the Town of Westbrook lying southeasterly of the following described line, namely: Commencing at the Presumpscot River at the line of the Town of Falmouth; thence up said river to the westerly corner of the Hunt farm; thence along the westerly line of said farm to the Portland and Rochester Railroad; thence along the southerly line of the Larrabee farm to the Congin road; thence along the dividing line between the said Larrabee farm and the widow Lamb's farm to the land of the heirs of Moses Quimby; thence along the easterly and southerly line of the land of the heirs of said Moses Quimby to the Stroudwater road at the canal bridge; thence by the Cumberland and Oxford canal westerly about ten rods to the line between the farm of the heirs of the late Zebulon Trickey and the lands of George Johnson and Isaac Johnson; thence by said last described line southwesterly to the easterly line of the Slemmons' farm; thence by the said easterly line of the Slemmons' farm, being the dividing line between said Slemmons' farm and the land of George Johnson, southeasterly about twenty rods to the land of W. D. Boothby; thence southwesterly by the dividing line between said Boothby's land and the Slemmons' farm to the Cape Elizabeth town line. (Chapter 628 of the P. L. of 1871.)

**Cliff Island (Crotch Island).**

SECTION 9. Crotch Island, in Casco Bay, is hereby set off from the Town of Cumberland, and annexed to the City of Portland. (Chapter 355 of P. L. of 1889.)

At a meeting of the city council held March 5, 1900, the name of Crotch Island was changed to Cliff Island.

**Boundary Line between Deering and Falmouth.**

SECTION 10. The boundary line between the Town of Deering and the Town of Falmouth was perambulated October 24, 1898, and the lines established are as follows: Beginning at the southwesterly end of Mackey's Island, thence northwest to the channel of Presumpscot River, thence northeasterly up said channel until a course running north sixty-seven degrees ( $67^{\circ}$ ) west will strike the outlet of a stream of water passing down the westerly side of Samuel Knight's shipyard lot; thence northeasterly following the channel of said stream to a point opposite a large white rock on the easterly side thereof, said rock being marked with the letters F. & W., forty-seven (47) rods to a white oak tree on south side of county road; thence same course and on line with stone-wall, south side of Cobb road sixty-six (66) rods to monument; thence south thirty-three degrees ( $33^{\circ}$ ) west two and one-half ( $2\frac{1}{2}$ ) rods to monument; thence north sixty-seven degrees ( $67^{\circ}$ ) west forty-six (46) rods to monument; thence south twenty-four degrees ( $24^{\circ}$ ) west twenty-seven and one-half ( $27\frac{1}{2}$ ) rods to monument; thence south seventy-three degrees ( $73^{\circ}$ ) west twelve (12) rods to monument; thence north forty degrees ( $40^{\circ}$ ) west eight (8) rods to monument; thence south seventy-three degrees ( $73^{\circ}$ ) west twenty-nine (29) rods to monument; thence south eighty-five degrees ( $85^{\circ}$ ) west fifteen (15) rods to monument; thence north twenty-six degrees ( $26^{\circ}$ ) west forty-four and one-half ( $44\frac{1}{2}$ ) rods to monument; thence south forty-seven degrees ( $47^{\circ}$ ) west eight (8) rods to monument; thence north twenty degrees ( $20^{\circ}$ ) west thirty-seven and one-half ( $37\frac{1}{2}$ ) rods to monument; thence north seven degrees ( $7^{\circ}$ ) west forty-seven and one-half ( $47\frac{1}{2}$ ) rods to monument; thence north seventy-eight degrees ( $78^{\circ}$ ) west forty-five and one-half ( $45\frac{1}{2}$ ) rods to monument; thence north fifteen degrees ( $15^{\circ}$ ) east one hundred sixteen (116) rods to monument on southwesterly side of road; thence north fifteen degrees ( $15^{\circ}$ ) east sixty-four (64) rods to monument; thence north forty-six degrees ( $46^{\circ}$ ) west one hundred seven (107) rods to monument; thence north forty-five

degrees ( $45^{\circ}$ ) east one hundred and fifty (150) rods to middle of Presumpscot River monument on south bank; thence up middle of Presumpscot River, one hundred thirty-six (136) rods to monument on south bank near ledge; thence south forty-three and one-half degrees ( $43\frac{1}{2}^{\circ}$ ) west eighty-seven (87) rods to monument; thence north forty-five degrees ( $45^{\circ}$ ) west sixty-two (62) rods to monument; thence north forty-five degrees ( $45^{\circ}$ ) east seventeen (17) rods to monument; thence north forty-six degrees ( $46^{\circ}$ ) west forty-five (45) rods to monument; thence south forty-three ( $43^{\circ}$ ) west thirty-six (36) rods to monument; thence south forty-nine degrees ( $49^{\circ}$ ) west fourteen and one-half ( $14\frac{1}{2}$ ) rods to monument, to be set east side of New Gray road; thence south forty-nine degrees ( $49^{\circ}$ ) west sixty-four (64) rods to stone in wall "F. D.;" thence south seventy-one degrees ( $71^{\circ}$ ) west twenty-nine (29) rods to monument, east side of road; thence south seventy degrees ( $70^{\circ}$ ) west eighteen (18) rods to east Old Gray road; thence south eleven degrees ( $11^{\circ}$ ) west ten and one-half ( $10\frac{1}{2}$ ) rods to monument; thence south seventy-nine degrees ( $79^{\circ}$ ) west four (4) rods across road, monument one (1) rod eight (8) links from house of J. E. Forbes; thence south twenty-two and one-half degrees ( $22\frac{1}{2}^{\circ}$ ) west six and one-half ( $6\frac{1}{2}$ ) rods to monument; thence north thirty-six degrees ( $36^{\circ}$ ) west one hundred two (102) rods to monument; thence north sixty-three degrees ( $63^{\circ}$ ) east two (2) rods to monument; thence north eighteen (18) rods to middle of Presumpscot River monument on south bank; thence up middle of said river one hundred sixty-seven (167) rods to Westbrook line. All monuments marked F. W. or F. D.

(City of Deering Records, No. 4, Page 20.)

### **Boundary Line between Deering and Westbrook.**

SECTION 11. The boundary line between the Town of Deering and the Town of Westbrook was perambulated August 20, 1881, and the lines established are as follows:

Commencing at the line of the Town of Falmouth on the Presumpscot River; thence up said river to the westerly corner of the Hunt farm (so called) and a stone monument marked W. D. standing four (4) rods from an oak tree on the bank of the river; thence southeasterly by said Hunt farm seventy-five (75) rods and four (4) links to a stone monument marked W. D.; thence southwesterly by said Hunt farm twenty-two (22) rods and ten (10) links to a stone monument marked W. D. and the Larrabee farm (so called); thence southeast-



erly by said Larrabee farm thirty-four (34) rods and nine (9) links to a stone monument standing on the southerly line of the Portland and Rochester Railroad marked W. D.; thence on the southeasterly line of the Larrabee farm to a stone monument on the northerly side of the Congin road one hundred sixty (160) rods and eleven (11) links; thence south thirty-five degrees ( $35^{\circ}$ ) west four (4) rods and two (2) links to a southerly line of said road and a stone monument marked W. D.; thence southwesterly along the dividing line between the said Larrabee farm and the widow Lamb's farm two hundred fourteen (214) rods and twelve (12) links to a stone monument marked W. D. and the land of the heirs of the late Moses Quinby; thence south fifty-three and one-fourth degrees ( $53\frac{1}{4}^{\circ}$ ) east thirteen (13) rods and twenty-one (21) links to a stone monument marked W. D.; thence southwesterly on the southeasterly line of said Quinby land one hundred twenty-seven (127) rods to a stone monument marked W. D. on the Stroudwater road at the Canal bridge; thence up the canal north seventy and one-half degrees ( $70\frac{1}{2}^{\circ}$ ) west forty-three (43) rods and eleven (11) links to a stone monument marked W. D. and farm of the heirs of the late Zebulon Trickey; thence on the line between said Trickey's and land of Isaac and George Johnson south fifty and one-half degrees ( $50\frac{1}{2}^{\circ}$ ) west one hundred six (106) rods to a stone monument marked W. D. and the northerly bank of Stroudwater River; thence up said river about forty (40) rods to a stone monument marked W. D.; thence on said line between said Trickey's house and land of said Isaac and George Johnson southwesterly sixty-one (61) rods and four (4) links to a stone monument marked W. D. and the easterly line of the Slemons farm; thence southeasterly by said Slemons farm eighty-nine (89) rods and six (6) links to a stone monument marked W. D. and land of W. D. Boothby; thence southwesterly by the dividing line between said Boothby and the Slemons farm to a stone monument marked W. D. on the northerly of the Buxton road forty (40) rods and thirteen (13) links; thence southwesterly on said dividing line one hundred forty-one (141) rods to a stone monument marked C. W. D. on the Cape Elizabeth line by a yellow birch tree. (Town of Deering Records. Page 35.)

#### **Boundary Line between Deering and Cape Elizabeth.**

SECTION 12. The boundary line between the Town of Cape Elizabeth and the Town of Deering was perambulated December 30th, 1890, and the lines established are as follows:

Beginning at Fore River at the mouth of a creek on the southerly side of Silas Broad's heirs' farm; thence running westerly on said creek one hundred (100) rods more or less to a granite boulder marked C. D. near the head of tide water in said creek; thence north fifty-eight and three-fourths degrees ( $58\frac{3}{4}^{\circ}$ ) west, six (6) rods to a stone monument marked C. D. in the fence of Abner Gould's southerly line; thence north eighty and three-fourths degrees ( $80\frac{3}{4}^{\circ}$ ) west, one hundred fourteen (114) rods on said fence to a stone monument marked C. D. in the easterly line of the road leading by said Broad's dwelling house; thence north seventy-seven and three-fourth degrees ( $77\frac{3}{4}^{\circ}$ ) west, across said road and in the division line of Broad and E. K. Chapman, sixty (60) rods to a stone monument marked C. D.; thence south twenty-five and one-fourth degrees ( $25\frac{1}{4}^{\circ}$ ) west, on said fence eight (8) rods and twenty (20) links to a stone monument marked C. D.; thence north sixty-eight and three-fourths degrees ( $68\frac{3}{4}^{\circ}$ ) west, on said fence sixty-four (64) rods to a stone monument in the division fence between said Broad and Albert Chesley, marked C. D.; thence north fifty-two and one-fourth degrees ( $52\frac{1}{4}^{\circ}$ ) east, and one hundred (100) rods to a stone monument marked C. D. in said Broad's and Chesley's fence; thence north twenty and three-fourths degrees ( $20\frac{3}{4}^{\circ}$ ) west, six (6) rods and twenty (20) links to a stone monument marked C. D.; thence north sixty and one-fourth degrees ( $60\frac{1}{4}^{\circ}$ ) east, twelve (12) rods on said fence to a stone monument marked C. D.; thence north eighty-five and one-half degrees ( $85\frac{1}{2}^{\circ}$ ) west, to a stone monument standing on the westerly side of the road near Geo. W. Johnson's house; thence same course to a stone monument marked C. W. D., it being the corner stone of Cape Elizabeth, Westbrook and Deering. (Miscellaneous Records in office of City Civil Engineer.)

## **CHAPTER 10.**

# **BRIDGES.**

### **Statutes.**

#### **Bridges Erected by City — How Maintained.**

SECTION 1. Bridges erected by any municipality, over which any railroad passes, shall be constructed and maintained in such manner and condition, as to safety, as the board of railroad commissioners may determine. Said board shall have authority to require the officers of the railroad company and those of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest as said board may deem proper. Said commissioners shall determine at such hearing the repairs, renewals or strengthening of parts, or if necessary the manner of rebuilding of such bridge, required to make the same safe for the uses to which it is put. They shall determine who shall bear the expense of such repairs, renewals, strengthening or rebuilding of such bridge, or they may apportion such expense between the railroad company and the city or town, as the case may be, in such manner as shall be deemed by the board as just and fair. Said board shall make their report as hereinafter provided. (Chapter 72 of 1895, Section 3.)

#### **Commissioners' Report — Copies to Be Sent to Interested Parties — When Appeals May Be Taken.**

SECTION 2. The board of railroad commissioners shall make a report in writing of their determinations and decisions in the matters named in the preceding section, file the same in their office, and cause to be sent by mail to each of the railroad corporations, or the municipal officers of the cities or towns, as the case may be, interested therein, a copy of such determination or decision. Such decision or determination shall be final and binding upon all parties named, unless an appeal therefrom shall be taken and entered in the next succeeding term of

the Supreme Judicial Court, to be held in the county where the bridge is located, after thirty days from the date of the report. (Chapter 72 of 1895, Section 4.)

**Appellant to File Reasons for Appeal — Copy to Be Served on Other Party— Final Adjudication to Be Recorded — Costs, How Taxed.**

SECTION 3. If any appeal shall be taken as provided in the preceding section, the appellant shall within thirty days from the date of the filing of such decision, file in the office of the board of railroad commissioners, its reasons for appeal, and fourteen days at least before the sitting of the appellate court, it shall cause to be served upon such other interested corporation or municipality a copy of such reasons for appeal, certified by the clerk of the board of railroad commissioners. The presiding justice, at such term of court, shall make such order or decree thereon as law and justice may require. Exception may be taken to such order or decree. The final adjudication shall be recorded by the clerk of courts in the county where the crossing or bridge is located, and a copy of the same shall be certified by said clerk to the board of railroad commissioners for record in their office. Costs may be taxed and allowed to either party at the discretion of the court. (Chapter 72 of 1895, Section 5.) .

(For bridges crossing ways, see Railroads, *post*.)

(For lamps on bridges, see Lamps, *post*.)

(For contracts between city and electric railroads crossing bridges, see Railroads, *post*.)

**PRIDE'S AND STROUDWATER BRIDGES.**

**Portland to Support Pride's and Stroudwater Bridges.**

SECTION 4. In the Act of the Massachusetts Legislature, incorporating the Town of Portland, the following provision in regard to bridges in that part of Falmouth, now called Westbrook, was enacted, viz.: "And be it further enacted that the inhabitants of the Town of Portland shall from time to time amend and repair Pride's bridge on Presumpscot River and the great bridge, so called, (now called Stroudwater bridge,) on Fore River, although the same be not included within the limits of Portland aforesaid." (Special Laws of Mass., July 4, 1786.)

(See original town charter.)

## VAUGHAN'S BRIDGE.

**History of Vaughan's Bridge.**

SECTION 5. By an Act passed by the Massachusetts Legislature, February 25, 1794, William Vaughan and others were constituted a corporation, under the name of the proprietors of Portland bridge, for the purpose of constructing a bridge from Portland to Cape Elizabeth. (A subsequent Act, passed March 4, 1800, changed the name of the corporation to "the proprietors of Vaughan's bridge.") Provisions were made for organization, the rates of toll (to be subject to the regulations of government after the term of thirty years), and also for the construction of a draw for the passage of vessels. It was further provided that the Act should be void if the bridge should not be completed for the space of six years. The additional Act passed March 4, 1800, extended the time for the completion of the same nine months. It was further enacted, that the bridge shall be built at a place called Bramhall's Point in Portland, and land at or near Jacob Brown's farm in Cape Elizabeth, as may be determined by a majority of the proprietors.

**Vaughan's Bridge Made a Free Bridge.**

SECTION 6. By an Act approved April 17, 1854, the county commissioners of the County of Cumberland were authorized to lay out and locate a free bridge and public highway across Fore River, in said county, commencing at the easterly end of Vaughan's bridge, in Portland, and extending on the line of said bridge to the westerly termination thereof, in Cape Elizabeth, if upon petition and hearing pursuant to the twenty-fifth Chapter of the Revised Statutes, said commissioners shall judge said bridge and highway to be of common convenience and necessity. (P. L. of 1854, Chapter 363, Section 1.)

**Draw, Construction and Regulation of.**

SECTION 7. Said county commissioners shall cause to be constructed in such place in said bridge, as they may designate, a suitable and convenient draw, of not less than forty-two feet in width; and said draw shall be kept and maintained under such regulations as said commissioners may from time to time establish. (Ib., Section 2.)

**Expense of Constructing Bridge, How Paid -- Bridge Territorial Limits, Regulation of -- Powers of County Commissioners over Bridge.**

SECTION 8. Three-fourths of the expense of constructing and maintaining said bridge, shall be paid by the City of Portland, and one-fourth

by the Town of Cape Elizabeth; and said commissioners shall have power to designate the sections of said bridge which shall be respectively built and maintained by said City of Portland, and said Town of Cape Elizabeth, and to establish the lines of divisions between said sections, and if upon such division any part of said bridge required to be built and maintained by said city, shall extend within the present limits of said Town of Cape Elizabeth, the territory covered by such part of said bridge shall be thereafter inclosed within the territorial limits of said city so long as said bridge shall be maintained; and said commissioners, in addition to the powers herein before granted, shall have powers in laying out and locating said highway and bridge conferred by the provisions of the twenty-fifth Chapter of the Revised Statutes, relating to the location of highways, and the awarding of damages therefor. (Ib., Section 3.)

### **Location of Bridge.**

SECTION 9. At a meeting of the board of county commissioners for the County of Cumberland, held May 29, 1854, a free bridge and public highway was laid out and located on the lines of Vaughan's bridge, in accordance with the provisions of the aforesaid Act. It was determined that the bridge should be thirty-three feet in width, and twenty-five hundred and sixty-four feet in length, and that the section to be built and maintained by the City of Portland, should comprise fourteen hundred and eight feet; and that to be built and maintained by the Town of Cape Elizabeth, eleven hundred and fifty-six feet. It was also determined that the City of Portland should build and maintain within her section a suitable and convenient draw, of not less than forty-two feet in width, for the passage of vessels, boats, &c.

It was also further determined that the City of Portland and Town of Cape Elizabeth should be allowed the term of one year from the sixth day of June, 1854, to build said bridge.

Rep. C. C., June Term, 1854, S. J. C. See County Commissioners' Records, Vol. 10, pp. 235,-6.

### **DEERING'S BRIDGE.**

### **History of Deering's Bridge.**

SECTION 10. Deering's bridge, so called, was laid out by the Town of Portland, as by the following extract from town records:

"In town meeting, May 6, 1805: Voted to raise one thousand

## PORTLAND BRIDGE.

**Location.**

SECTION 19. The proprietors of Portland bridge were incorporated February 10, 1823. The corporators were authorized and empowered to construct a bridge from the northerly point of the farm of Elias Thomas, Esq., in Cape Elizabeth, to the nearest convenient point southwesterly of Robinson's wharf in Portland, and to purchase and hold such real and personal estate as may be necessary to carry the aforesaid object into complete effect. (Act of 1823, Chapter 212, Section 1.)

**Draw — Piers — Vessels to Pass Free of Expense.**

SECTION 20. It was further enacted that said proprietors should build and keep a convenient and sufficient draw or passage way, at least thirty-two feet wide, at some place in said bridge, proper for the passing of vessels by day and by night through the same, and a suitable wharf or pier on each side of said bridge, and adjoining said draw, sufficient for vessels to lie at. And said draw shall be lifted for all vessels without toll or pay, except for boats or vessels passing for pleasure; and all vessels intended to pass through said draw shall be free of charge at said wharf or pier until a suitable time shall offer for passing the same. (Ib., Section 4.)

**Surrender of Bridge to County of Cumberland — Free Bridge.**

SECTION 21. In accordance with the provisions of an Act, approved August 28, 1850, entitled "An Act relating to the surrender of toll bridges and turnpikes to public uses," authorizing the county commissioners to accept the surrender of bridges from the owners thereof, the proprietors of Portland bridge surrendered the same to the County of Cumberland, and at a meeting of the county commissioners, held at Portland, June 14, 1851, the same was accepted and established as a free bridge from and after that date. (Act of 1850, Chapter 197.)

(See County Commissioners' Record, Vol. 9, page 364.)

**Powers Given to County Commissioners to Establish a Side Passage to West Commercial Street.**

SECTION 22. By an Act, approved March 19, 1853, entitled "An Act giving to the county commissioners of Cumberland County further powers in relation to Portland bridge," the county commis-

sioners of Cumberland County were authorized, if they should adjudge the object contemplated by this Act to be for the public convenience and interest to alter Portland bridge in said county, by locating and establishing in addition to the present bridge, a side passage or branch, suitable for a public highway, leading from the western side of said bridge, and above low-water mark, to Canal (now West Commercial) street, in Portland, to be constructed and maintained as a part of Portland bridge, as the same is now held and maintained, and in the manner and under the limitations provided in an Act passed August 28, 1850, entitled "An Act relating to the surrender of toll bridges and turnpikes to public uses." (P. L. of 1853, Chapter 95, Section 1.)



## CHAPTER 11.

# BUILDINGS.

### Statutes.

#### **Authority of City to Enact Laws Respecting Erection of Buildings.**

SECTION 1. Cities may make By-laws or ordinances, not inconsistent with law, and enforce them by suitable penalties, respecting the erection of buildings therein, and defining their proportions, dimensions and the material to be used in the construction thereof, and any building erected contrary to a By-law or ordinance adopted under this specification is a nuisance. (R. S., Chapter 3, Section 59.)

("Erection of Buildings" defined, *Wadleigh vs. Gilman*, 12 Me. 406.)

The city may also pass ordinances for the prevention of fires by virtue of the authority granted in Section one of the city charter.

(See *Wadleigh vs. Gilman*, *supra*; *State vs. Merrill*, 37 Me. 330.)

#### **Inspector of Buildings — How Appointed — Jurisdiction.**

SECTION 2. In every town and city of more than two thousand inhabitants, the municipal officers shall annually in the month of April appoint an inspector of buildings, who shall be a man skilled in the construction of buildings. The municipal officers shall define the limits within which the inspector of buildings shall have jurisdiction, which shall include the thickly settled portion of each such city, and of each village in each such city or town. (P. L. of 1895, Chapter 101, Section 1.)

#### **Buildings in Process of Construction to Be Inspected.**

SECTION 3. It shall be his duty to inspect each new building during the process of construction, so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe, and that proper cut-offs are placed between the timbers in the walls and floorings where fire would

be likely to spread; and may give such directions in writing to the owner or contractor as he deems necessary, concerning the construction of such building so as to render the same safe from the catching and spreading of fire. (P. L. of 1895, Chapter 101, Section 2.)

#### **Buildings While Being Repaired to Be Inspected.**

SECTION 4. It shall be his duty to inspect all buildings while in process of being repaired, and see that all reasonable safeguards are used against the catching and spreading of fire, and that the chimneys and flues are made safe; and he may give such directions in writing to the owner as he deems necessary concerning such repairs, as to render such building safe from the catching and spreading of fire. (P. L. of 1895, Chapter 101, Section 3.)

#### **Chimneys, Furnaces, Boilers, etc., to Be Inspected.**

SECTION 5. It shall be his duty at least once in three years, and oftener when required by the municipal officers, to inspect chimneys, flues, funnels, stoves, furnaces, boilers and boiler connections, and heating apparatus in all the buildings within his jurisdiction, in which fire is kept or used, to ascertain if the same are safe against fire. He may give such directions in writing as he may deem necessary to the owner of said building to make changes in the construction or situation of such chimneys, flues, funnels, stoves, furnaces, boilers, boiler connections and heating apparatus, so as to make the same as aforesaid. And the municipal officers may require such inspection of any particular building at any time. (P. L. of 1895, Chapter 101, Section 4.)

On complaints of any citizen that a chimney, stove, stove pipe, oven, furnace, boiler or appurtenance is defective, out of repair, or so placed in any building as to endanger it or any other building, the municipal officers, if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he forfeits not less than ten, nor more than one hundred dollars. (R. S., 1883, Chapter 26, Section 13.)

#### **Inspector and Municipal Officers May Enter Any Building, When — May Order Removal of Combustibles — Person Aggrieved May Appeal — Investigation to Be Had When Complaint Made.**

SECTION 6. An inspector of buildings in the performance of his official duty may enter any building for the purposes of making the

inspection required by this Act. (P. L. of 1895, Chapter 101, Section 5.)

The inspector of buildings and the municipal officers of any city or town shall have the right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within their jurisdiction. Whenever any of said officers shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such buildings or premises they shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said buildings or premises; provided, however,, that if the said owner or occupant shall deem himself aggrieved by such order when made by the inspector of buildings, he may, within twenty-four hours, appeal to the municipal officers, and the cause of the complaint shall be at once investigated by the direction of the latter, and unless by their authority the order above named is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. The inspector of buildings or the municipal officers shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in said buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, shall be punished by a fine of not less than five dollars for each day's neglect. (P. L. of 1897, Chapter 253.)

#### **Appeal from Order of Inspector.**

SECTION 7. An appeal in writing may be taken from any order or direction of the inspector of buildings to the municipal officers, whose order thereon shall be final. (P. L. of 1895, Chapter 101, Section 6.)

#### **Certain Buildings Not to Be Occupied Until Certificate of Inspection Has Been Given. — Penalty — Appeal, How Taken.**

SECTION 8. No new building shall be occupied until the inspector of buildings has given a certificate that the same has been built in accordance with the provisions of this Act, and so as to be safe from fire; if the owner permits it to be so occupied without such certificate, he shall be liable to a fine of ten dollars for each week he permits such

buildings to be so occupied, to be recovered by complaint or indictment. In case the inspector of buildings should from any cause decline to give his certificate where the builder has, in his own judgment, complied with the provisions in this Act, an appeal may be taken to the municipal officers and if on such an appeal, it shall be decided by them that the provisions of the Act have been complied with, the owner of said building shall not be liable to a fine for want of the certificate of the inspector. (Chapter 101, Section 7, of P. L., 1895.)

No person shall occupy any tenement in a maritime town for sail-making, rigging, or as a livery stable, except where the municipal officers direct; whoever violates this section, forfeits ten dollars a month during the continuance of such occupancy. (Chapter 26, Section 12 of R. S., 1883.)

#### **If Owner Fails to Comply with Inspector's Orders, How Punished.**

SECTION 9. If the owner of any building neglects or refuses for more than thirty days to comply with any direction of the inspector of buildings given as aforesaid, concerning the repairs on any building, as provided in Section 3, or to make such changes in the construction or situation of the chimneys, flues, funnels, stoves, furnaces, boilers and boiler connections, and heating apparatus, as may be required by such inspector of buildings, under the provisions of Section 4, or as may be confirmed by the municipal officers on appeal, he shall be liable to a fine of ten dollars for each week he so neglects or refuses, to be recovered by complaint or indictment. (P. L. of 1895, Chapter 101, Section 9.)

#### **If Owner Refuses to Admit Inspector to Building, Penalty.**

SECTION 10. Any owner or occupant of a building, who refuses to permit an inspector of buildings to enter his building, or wilfully obstructs him in the inspection of such building as required by this Act, shall be liable to a fine of not less than one nor more than twenty dollars, to be recovered by complaint or indictment. (P. L. of 1895 Chapter 101, Section 9.)

#### **Municipal Court Has Jurisdiction in Offences under Sections 8, 9 and 10.**

SECTION 11. Municipal courts and trial justices shall have jurisdiction of the offences named in Sections 8, 9 and 10. (P. L. of 1895, Chapter 101, Section 10.)

**City May Define Duties of Inspector of Buildings — Salary.**

SECTION 12. Towns and cities may make By-laws not inconsistent with this Act, defining more particularly the duties of such inspector of buildings, and the rules and regulations by which he is to be governed. Municipal officers shall determine the compensation or salary of the inspector of buildings. (P. L. of 1895, Chapter 101, Sections 11 and 12.)

**Dangerous Buildings May Be Adjudged Nuisances — Proceedings — Powers of Municipal Officers.**

SECTION 13. When the municipal officers of a town, after personal notice in writing to the owner of any burned, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, three weeks successively, otherwise in the State paper, and after a hearing of the matter, adjudge the same to be a nuisance, or dangerous, they may make and record an order, prescribing what disposal shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if a resident of the State, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith. If the owner, or part owner, is unknown, or resides without the State, such notice shall be given by publication in the State paper, or in a paper published in the county, three weeks successively. (R. S. Chapter 17, Section 25.)

**Municipal Officers May Order Nuisance Abated, at Owner's Expense, Unless Owner Applies to the Supreme Court.**

SECTION 14. If no application is made to a Justice of the Supreme Judicial Court, as is hereafter provided, the municipal officers of such town shall cause such nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand, or may be recovered of such person, by an action for money paid. (R. S., Chapter 17, Section 26.)

**Owner May Apply to Supreme Court — Proceedings.**

SECTION 15. Any owner aggrieved by such order may apply to a Justice of the Supreme Judicial Court, in term time or vacation, who shall forthwith, after notice and hearing, affirm, annul or alter such order. If the court is not in session, the action shall be entered on the docket of the preceding term. (R. S., Chapter 17, Section 27. See also 82 Me. 558.)

**Costs — By Whom to Be Paid.**

SECTION 16. If the court affirm such order, costs shall be recovered by the town. If it wholly annuls such order, costs shall be recovered by the applicant, and if it alters it in part, the court may render such judgment as to costs as justice requires. (R. S., Chapter 17, Section 28.)

**Inner Doors of Public Buildings Shall Open Outwards —  
When Outer Doors Are to Be Kept Open — Not to Apply  
to Certain Buildings.**

SECTION 17. Every building intended temporarily or permanently for public use, and every schoolhouse and schoolroom, shall have all inner doors, intended for egress, open outwards. The outer doors of all such buildings shall be kept open when the same are used by the public, unless they open outwards; but fly doors opening both ways may be kept closed. Provided, that the provisions of Section 25 of Chapter 26 of the Revised Statutes shall not apply to schoolhouses of one story in height. (R. S., Chapter 26, Section 25.)

**Suitable Fire Escapes to Be Provided for Hotels, Factories,  
etc.**

SECTION 18. Every public house where guests are lodged, and every building in which any trade, manufacture, or business is carried on, requiring the presence of workmen above the first story, and all rooms used for public assembly or amusement, and all tenement houses three stories in height where only one stairway or means of egress from the upper stories out of the building is provided, and all tenement houses of four or more stories in height, intended to be occupied by families, boarders or lodgers above the third story, shall at all times be provided with suitable and sufficient fire escapes, outside stairs or ladders, from each story or gallery above the level of the ground, easily accessible to all inmates in case of fire or of an alarm of fire; the sufficiency thereof to be determined as provided in the following section. (R. S., Chapter 26, Section 26.)

**Municipal Officers and Engineers of Fire Department Shall  
Inspect Safeguards and Order Repairs.**

SECTION 19. In towns or parts of towns having no organized fire department the municipal officers shall annually make careful inspection of the precautions and safeguards provided in compliance with the foregoing requirements, and pass upon their sufficiency as to arrangement and number, and upon their state of repair; and direct such

alterations, additions and repairs as they adjudge necessary. In towns, cities and villages having an organized fire department, the duties aforesaid shall be discharged by the board of fire engineers. (R. S., Chapter 26, Section 27.)

**Written Notice of Sufficiency of Safeguards to Be Given.**

SECTION 20. Such municipal officers or fire engineers shall give written notice to the occupant of such building, also to the owner thereof, if known, of their determination as to the sufficiency of said precautions and safeguards, specifying in said notice any alteration, addition or repair which they require. Sixty days are allowed for compliance with such notice and order. (R. S., Chapter 26, Section 28.)

**Penalty, if Owner Fails to Comply with Orders for Safeguards — Use of Such Buildings May Be Forbidden — Penalty.**

SECTION 21. Any owner or occupant who neglects to comply with such order within the time so allowed, forfeits fifty dollars, besides five dollars for every day's continuance of such neglect; and the building or part of the building so occupied shall be deemed a common nuisance, without any other evidence and proof of its use; and the keeper shall be punished accordingly. Said officers may forbid the use of such building for any public purpose until their order has been complied with. And if the owner or occupant of said building lets or uses the same in violation of such order, he forfeits not less nor more than fifty dollars for each offence. (R. S., Chapter 26, Section 29.)

**Municipal Officers and Fire Engineers Shall Give Occupant Certificate of Sufficiency of Safeguards — Clerk of City to Record Same.**

SECTION 22. Whenever the municipal officers or engineers upon inspection find that proper safeguards and precautions for escape in case of fire or of alarm have been provided, they shall give to the occupant of such building a certificate under their hands, of such fact, which shall be valid for one year only from its date; and a reasonable compensation for such inspection shall be paid by the city or town in which any such building is located, by an order drawn upon its treasurer. Such officers shall return to the clerk's office of their town, monthly, a list of such certificates by them issued, which the clerk shall record in a suitable book. (R. S., Chapter 26, Section 30.)

**Certificate Posted in Building, Evidence.**

SECTION 23. Every person receiving such certificate shall keep such certificate posted in such building. Such annual certificate, so posted, is *prima facie* evidence of the inspection of such building and of the presence of such suitable safeguards and precautions. Every occupant of such building who neglects or refuses to procure such certificate or to post the same as aforesaid, forfeits ten dollars for every week that he so neglects and refuses. (R. S., Chapter 26, Section 31.)

**Penalty for Municipal Officer's Neglect.**

SECTION 24. Every municipal officer or fire engineer who refuses or neglects to perform the duties imposed upon him by the seven preceding sections forfeits fifty dollars. (R. S., Chapter 26, Section 32.)

**Fines, How Recovered.**

SECTION 25. All fines and forfeitures imposed by the four preceding sections may be recovered by the town where the building is located, by an action on the case or by indictment.

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**ORDINANCE.****Inspection and Construction of Buildings Regulated.**

SECTION 1. For the prevention of fire and the preservation of life, the city council hereby regulates the proportions, dimensions, and the materials to be used in the construction of buildings and other structures within the limits of the City of Portland, and establishes fire limits, as hereinafter provided.

**Duties of Inspector of Buildings.**

SECTION 2. The inspector of buildings shall examine all buildings in the course of erection, and enlargement, and ascertain if the ordinances of the city are being complied with. When sufficient plans and specifications are not submitted, he may require a description of any proposed erection, and enlargement of any building to be submitted to him. He shall grant permits for the erection, and enlargement of buildings, whenever application is made therefor, provided the plans and specifications or the description thereof, show the intent to comply with the provisions of the laws of the State and the ordinances of the



city. Said inspector, when informed that a building is dilapidated or dangerous, shall forthwith report the same to the municipal officers, and the municipal officers may take action in accordance with the provisions of Sections 25, 26, 27 and 28 of Chapter 17 of the Revised Statutes of Maine. He shall report to the city marshal all violations of the laws of the State and the ordinances of the city. He shall keep a record of the business of his office, including all violations of the ordinances relating to buildings, and shall submit to the city council at the end of each year a report of his doings during said municipal year.

### **Fire Limits.**

SECTION 3. The fire limits of the City of Portland shall include all that part of the City of Portland inclosed by the following lines, to wit: — Beginning on Cumberland street at its intersection with State street; thence through Cumberland street to Smith street; thence through Smith street to Congress street; thence through Congress street to India street; thence through India street to Commercial street; thence through Commercial street to State street; thence through State street to Cumberland street, to point of beginning.

### **Buildings in Fire Limits to Be of Brick, Stone or Iron, Etc.**

SECTION 4. No person shall erect or cause to be erected within the fire limits any building, unless the exterior walls of such building shall be constructed wholly of brick, stone or iron, or other non-combustible material, the roof covered with metal, slate or gravel, and the gutters and cornices made of metal, and all wooden bay windows and dormer windows covered with metal. Any wooden building within said fire limits may be altered or repaired in any manner approved by the inspector. No building shall hereafter be erected on any of the wharves within said city, or upon any land lying between Commercial street and the harbor commissioner's line, unless the exterior walls of such building shall be made of or sheathed with brick, stone or iron, or other non-combustible material, the roof covered with metal, slate or gravel, and the gutters and cornices made of metal, and all wooden bay windows and dormer windows covered with metal.

Any person who shall hereafter erect any building contrary to the provisions of this Section shall be liable to a penalty of fifty dollars; and the owner thereof shall also be liable to a penalty of ten dollars for each and every day during which such building shall be maintained.

**Unlawful to Erect or Alter Building without Permit—Permit, How Granted.**

SECTION 5. No person shall begin or continue the erection, or enlargement of any building or structure, within the City of Portland, without first having applied for and obtained a permit so to do from the inspector of buildings. The applications for permits for erection or enlargement of any building or other structure, shall specify, in detail, the location and size of the building to be erected or enlarged, and the material of which it is to be constructed, and the use for which it is intended.

The removal, extension, or essential alteration, or the rebuilding or repairing of any building which has been partially destroyed by fire, shall be subject to the restrictions which are imposed by this Section.

**Permits May Be Refused, When.**

SECTION 6. If the matters mentioned in the application for a permit or the plans and specifications or description filed with the same, indicate to the inspector of buildings that the work to be done is not in all respects in accordance with the provisions of the city ordinances and the laws of the State, he shall refuse to issue a permit therefor, until the same has been made so to comply.

**Notice and Permit for Deviation.**

SECTION 7. If during the progress of the work upon any structure it is desired to deviate in any manner affecting the construction or strength of the same, from the plans and specifications or description upon which the permit was issued, notice of such proposed change must be filed in the office of the inspector of buildings, and his written permit obtained therefor before such alterations are made.

**Permits to State Purpose for Which Building Is to Be Used.**

SECTION 8. Every permit issued, as hereinbefore provided, shall state the purpose for which the building or structure is to be used, and, if plans and specifications are submitted to the inspector of buildings at the time of the granting the permit, said inspector shall, if the plans and specifications are by him approved, endorse his approval thereon. All permits issued shall be recorded in detail in the office of the inspector of buildings, and said records shall be preserved.

**Line and Grade of Street to Be Given.**

SECTION 9. No person shall erect or alter, or excavate for the purpose of erecting or altering any wall or other structure, any part of which is, or is to be placed within ten feet of a public street, unless such person shall have first ascertained from the commissioner of public works the proper line and grade of said street; and it shall be the duty of the commissioner of public works, when so requested, to issue a certificate thereof. Said commissioner shall keep a record of all certificates so issued.

**Encroachments on Streets.**

SECTION 10. No portico, porch, door, window or step shall be so constructed as to project into any street. Whoever shall violate the provisions of this section shall be punished by a fine of not less than five dollars, and a like penalty for each day that the said portico, porch, door, window or step shall be continued as aforesaid after thirty days' notice from the inspector of buildings to remove the same.

**Stables.**

SECTION 11. No person shall hereafter erect any livery, sale or other stable within seventy-five feet of any schoolhouse, church or public hall; and no person shall use for a stable any building now erected and within seventy-five feet of any schoolhouse, church or public hall, unless said building is now used for a stable. Whoever violates any provision of this section shall forfeit a penalty of fifty dollars; and shall also incur a penalty of ten dollars for each and every day during which such stable shall be kept or maintained.

**Computing Strength of Materials.**

SECTION 12. In all calculations for the strength of materials to be used in any building, the proportion between the safe weight and the breaking weight shall be as one to four, for all beams, girders and other pieces subject to cross strains, and as one to five for all posts, columns and other vertical supports, and for all tie-rods, tie-beams and other pieces subject to tensile strength, and the requisite dimensions of each piece of material are to be ascertained by the rules given by the best authorities, using for constants in the rules only such numbers as have been deduced from experiments on materials of like kind with that proposed to be used.

All mortar and cement shall be of the best quality for the purposes for which they are applied and shall be properly mixed.

### **Plans of Public Buildings.**

SECTION 13. A full set of plans and specifications of every public building hereafter erected by the city, and of every alteration in a public building, provided any plans and specifications are made of such alteration, shall be deposited in the office of the inspector of buildings, and when so deposited shall be subject to the orders of the committee on public buildings and shall not be removed from said depository unless by order of the committee on public buildings.

### **Footings for Walls and Piers.**

SECTION 14. Every building or structure hereafter built in the city, of brick, stone, iron or other hard and incombustible materials, shall have foundations resting upon the solid ground, not less than four feet below the surface exposed to frost, or upon concrete, piles or other durable substructure. Every wall constructed of brick, stone or similar substance, shall be properly bonded and solidly built with one-half cement mortar. For brick buildings if the walls exceed thirty feet in height, there shall be under all foundation walls, piers, columns, posts, pillars, partition or party walls resting on the earth, a footing or base course of stone or concrete, which if under a foundation wall shall be not less than twelve inches wider than the bottom width of said wall, partition or party wall above the same and not less than twelve inches thick; and if under piers, columns, posts, and pillars, shall be of stone or concrete, and not less than twelve inches wider on all sides than the bottom area of said piers, columns, posts and pillars, but shall not be less than two feet by two feet in area by twelve inches in thickness, and if of stone to be laid in cement mortar. If the walls rest on isolated piers, then there must be under such piers, footings at least sixteen inches thick. All piles shall be capped with block granite levelers, each stone to have a firm footing on at least one pile in each row.

### **Foundations for Brick Buildings.**

SECTION 15. Foundation walls of brick buildings other than dwellings, tenements or lodging houses shall be constructed of good flat ledge stone well laid in mortar, composed of one part cement to one part lime, and to be eight inches thicker than the external or party wall .

immediately above and over the same, at least one-third of the stone to be bond stone of sufficient length to thoroughly bind the wall. If said foundation is constructed of block stone laid in horizontal courses, or of hard burned brick in all cement mortar, or of all Portland Cement concrete, they shall be four inches wider than the wall above or over the same. If said foundation is set to a depth of twelve feet below the grade of street or ground, it shall be increased four inches. In case of severe thrust or pressure on said walls, from any cause, there shall be such extra strengthening of said wall by thickening or buttresses, or both as the inspector may approve.

Foundation walls of brick building to be used as dwelling, tenement or lodging houses, not to exceed thirty-five feet in height, shall be laid with good flat ledge stone in equal parts of lime and cement mortar, and shall be twenty inches in thickness; if said walls exceed thirty-five and do not exceed sixty feet in height the foundations thereof shall be not less than twenty inches thick; and for every fifteen feet additional height of wall the thickness thereof shall be increased four inches. If foundations are constructed with block stone in horizontal courses, or of hard brick in all cement mortar, or of Portland Cement concrete, they may be decreased. For rubble or random coursed work at least one-third of the stone shall be bond stone of sufficient length to thoroughly bind the wall. For strengthening walls over twelve feet in depth the same rule shall apply as in the preceding section. The underpinning of all brick buildings, if over four feet in height above grade, shall be four inches thicker than walls above.

### **Foundations for Wooden Buildings.**

SECTION 16. Every wooden building or structure, hereafter built in the city, which is to have a cellar or basement under the same, shall have foundations resting upon the solid ground, piles, concrete or other durable structure. Below grade the foundation walls shall be built of stone or brick laid in at least one-quarter cement mortar or concrete; if of stone, the wall to be not less than twenty inches thick at the bottom and sixteen inches at the top. Wooden buildings or structures whose area does not exceed twelve hundred superficial feet and whose height is not more than two stories, may have foundation walls not less than twenty inches thick, laid of good, flat, ledge stone, laid dry, well bonded and the inside faces pointed with good, strong mortar. The underpinning, above grade, of all wooden buildings shall be of brick or stone laid in at least one-quarter cement mortar. Brick

walls of a height of four feet or more shall be not less than twelve inches thick for buildings of two or more stories and not less than eight inches thick for buildings of less than two stories. All parts of foundations which are built of stone shall have the stones extend through sufficiently to bind the wall inside and outside.

#### **All Foundations to Be below Cellar Bottom.**

SECTION 17. All foundation walls shall be laid a sufficient distance below cellar bottom to secure a solid foundation.

#### **Cellars.**

SECTION 18. The cellar of every dwelling house hereafter built, where the grade or nature of the ground requires, shall be properly under drained and have a bed of concrete or hydraulic cement and gravel, or tar and gravel, or asphalt, not less than two inches in thickness, spread over the cellar bottom, or shall be paved with brick, laid in cement, throughout the whole extent of the building; and where there is a basement floor over the cellar bottom, with an air space between the concrete and said floor, the air space shall be properly ventilated.

#### **External and Party Walls of Dwelling Houses.**

SECTION 19. The minimum thickness of the external and party walls of all dwelling houses, when such walls are of brick or stone, shall be as follows: If the walls are twenty-three to thirty-six feet high, twelve inches to top of third floor timbers, and nine inches with an air space for the remaining height; if thirty-six to forty-six feet high, twelve inches to top of fourth floor timbers, nine inches with an air space for the remaining height; if forty-six to sixty feet high, twelve inches the entire height; if sixty to seventy feet high, sixteen inches to the second floor, and twelve inches for the remaining height; if seventy to eighty feet high, twenty inches to the second floor, sixteen to the upper floor, and twelve inches for the remaining height. All walls of dwellings, of eighty feet or more in height, shall have for the upper eight feet the thickness required for walls between seventy and eighty feet in height, and every section of twenty-five feet thereof, below such eighty feet, shall have a thickness of four inches more than is required for the section next above it.

All dwelling houses hereafter erected in blocks or in contact with other buildings shall be separated from each other, and also from such

other buildings, by a brick partition or division wall extending from the bottom of the cellar, or from a foundation wall constructed as provided in this ordinance, to the under side of the roof boarding, which shall be laid and imbedded in mortar upon said wall.

**External and Party Walls of Buildings Other Than Dwellings.**

SECTION 20. The minimum thickness of the external and party walls of all buildings other than dwelling houses, when such walls are of brick or stone, shall be as follows: If the walls are twenty-three to thirty feet in height the first story shall be twelve inches thick to the top of second floor; if thirty to forty feet, sixteen inches to the top of the second floor and the remaining height shall be twelve inches thick; if forty to sixty feet in height, twenty inches to the top of the second floor, sixteen inches to the top of the upper floor, and twelve inches for the remaining height; if sixty to eighty feet in height, twenty-four inches to the top of the first floor, twenty inches to the top of the upper floor and to within fifteen feet of the roof, and sixteen inches for the remaining height; if eighty feet or more in height, for the upper eighty feet the thickness required for walls between sixty and eighty feet high, and every section of twenty-five feet or part thereof below such eighty feet shall have a thickness of four inches more than is required next above it.

If each of adjoining owners shall erect a wall on his own land, instead of a party wall, such wall shall be not less than twelve inches thick the entire height; and such walls and all party walls shall extend two feet above the roof of the highest building of which they are a part and be coped with stone or iron, securely fastened, and whenever there is a projected cornice on front or rear of building, it shall be corbelled to the outer edge of all projections. Party walls shall be built solid the entire height, except when chimneys are inserted in them; in which case they shall be not less than six inches thick back of the chimneys. Buildings occupied by stores on the first floor and tenements above shall be classified as dwellings, but should the clear height of the store be in excess of twelve feet, the walls to the top of the second floor timbers must have an additional thickness of four inches.

**Partition Walls in Buildings for Two or More Families on a Floor.**

SECTION 21. In every building hereafter erected which is planned for two or more families to reside on the same floor, there shall be a

partition wall of brick or of studding lathed on both sides with metal laths and provided with fire stops at intervals of every four feet in height, separating each suite of rooms from the other suites. Such wall, if of brick, shall be not less than eight inches thick, built up to the under side of the roof covering, which covering shall be laid and imbedded in mortar upon said wall; or said wall shall be built twelve inches above the roof and covered with metal covering; or where said wall is not carried above the roof there shall be placed on each side of said wall a rafter, and mortar shall be filled in solidly between said wall and rafter; provided, however, that openings in party or partition walls may be made for the purpose of stairways, in which case all partitions around said openings shall be brick nogged, or filled solidly with cement mortar, and shall be lathed on both sides with metal lathing and plastered. The soffits of all such stairways shall be lathed with metal lathing. Party walls of brick in buildings more than two stories high shall be at least twelve inches thick to the first story floor.

#### **External Walls May Be Built of Iron or Steel.**

SECTION 22. External walls may be built in part of iron or steel, and when so built may be of less thickness than is above required for external walls, provided such walls meet the requirements of this ordinance as to strength, and provided that all constructional parts are wholly protected from heat by brick or terra cotta, or by plastering three-quarters of an inch thick, with iron furring.

#### **Brick Partitions.**

SECTION 23. Every brick building erected hereafter in the city, more than thirty feet in width, except halls, churches, theatres, railroad stations, or other public buildings, shall have one or more brick partition walls, not less than twelve inches thick, with foundations as provided in Sections 10 and 11, running from front to rear of building, and carried up to the top of the second floor joist. These walls shall be so located that the space between any two of the floor-bearing walls of the building shall not be over twenty-five feet in width.

#### **Girders—May Be Substituted for Partition Walls, When.**

SECTION 24. Iron or wooden girders, supported upon iron or wooden columns or by brick piers, may be substituted for partition walls, and shall be of sufficient strength to bear safely the weights which they are intended to support. The piers or columns shall rest upon level-



lers of suitable size and thickness to sustain with safety the load to be put upon it. This substitute for brick partitions shall be allowed only where an open space of more than twenty-five feet in width is desired, but no solid bearing partition other than brick will be allowed.

### **Headers.**

SECTION 25. In every brick wall, every eighth course of brick shall be a heading-course; except in bonded walls, in which at least every eighth course is a heading-course, and except when walls are faced with face brick, in which case every eighth course shall be bonded with Flemish headers, or by cutting the course of the face brick and putting in diagonal headers behind the same, or by splitting face brick and backing them with a continuous row of headers.

### **Securing of Brick Walls.**

SECTION 26. All brick walls shall be secured to each floor and the roof at intervals of not more than ten feet, with wrought iron anchor not less than one-half inch thick, one and one-half inches wide, and not less than three feet long, well turned up into center of brick wall and down into floor timbers, or tied with such steel box hangers or ties as the inspector of buildings may approve; and where floor and roof timbers are in two lengths and rest on partition walls or girders, they shall be strapped together with wrought iron straps or tie-irons, at the same distance apart, and in the same beams as the wall-anchors, and shall be well fastened, so as to form continuous ties across the building.

### **Ends of Timbers.**

SECTION 27. All roof and floor timbers entering the same party wall from opposite sides shall have at least four inches of solid brick-work between the ends of said timbers. The butts or ends of all floor beams or rafters entering a brick wall shall be cut on a splay of three inches in their width, and have bearings on the walls of four inches.

### **Piers.**

SECTION 28. All piers shall be built of good, hard, well-burned brick, laid in strong cement and sand mortar.

### **Frames of Buildings — Sills, Posts and Girths.**

SECTION 29. The sills of wooden buildings shall be not less than six by eight inches, and if over one story high the girths and posts shall

be not less than four by four inches, and all plates shall be not less than four by four inches, or their equivalent in two by four inch pieces. All the posts, girths and sills shall be mortised and tenoned, or firmly spiked or pinned, as the size of materials may require, and supported by suitable studding, and properly braced. If the building is of more than two stories there shall be a girth or fire stops at each floor level.

### **Rafters.**

SECTION 30. Rafters in buildings, which are over twenty feet in width, shall measure not less than two inches by six inches, and shall not be farther apart than twenty-four inches on centers. In buildings which are less than twenty feet in width, the size of rafters shall be of such measurement as may be determined by the inspector of buildings to be safe.

### **End Girths and Fire Stops.**

SECTION 31. All buildings not over one story and a half high shall have end girths, mortised, tenoned and pinned together, and when ledger boards are used there shall be fire stops cut in tight against bottom of ledger board of same size as wall studs.

### **Floor Spaces.**

SECTION 32. The floor space and flat roofs of all buildings shall be as follows:—

For a ten-foot span the floor timbers shall not be less than two inches by seven inches in size; for a twelve foot span not less than two by eight; for a fourteen-foot span not less than two by nine; for a sixteen-foot span not less than two by ten; for an eighteen-foot span not less than two by twelve. In all of the above-named spans the timbers shall be not more than sixteen inches apart on centers.

### **Strength of Floors.**

SECTION 33. All new or renewed floors shall be so constructed as to carry safely the weight to which the proposed use of the building will subject them; but the least capacity per superficial square foot, exclusive of materials, shall be:— For floors of dwellings, seventy pounds; for office floors, one hundred pounds; for floors of public buildings, one hundred and fifty pounds; for warehouses, stores, store-houses and mercantile buildings of like character, factories, drill rooms, and riding schools, two hundred and fifty pounds.

**Chimneys.**

SECTION 34. All chimneys in the city shall be built of brick or other fireproof, non-conducting material. All brick flues shall be smoothly plastered outside with mortar from below the top of roof rafters to bottom, unless such chimney is exposed to view. All fire flues shall be provided with burned clay flue lining, or shall be lined with brick on edge. If latter, inner lining and outer course to be tied together as often as courses permit. Chimneys in brick buildings, not starting from the foundation, shall be securely built to the brickwork of the walls to which they are hung, but in no case shall flues be built into a party wall so as to leave less than six inches of brickwork back of the same.

**Chimneys to Be Supported — Out of Plumb — Flues.**

SECTION 35. In no case shall chimneys rest upon any wooden flooring, but shall be supported upon iron beams having a secure bearing of masonry or iron, at either end, or upon an iron column resting upon a secure foundation.

In no case shall a single flue chimney be built more than four inches out of center of gravity, and all chimneys shall be built so as to be self-sustaining, unless the same be attached to a brick wall.

All flues shall be built of good, hard bricks, laid in one-half cement mortar, from two feet below the rafters to not less than four feet above the roof, and Portland cement only shall be used. No "soft" bricks shall be used in the construction of chimneys.

**Hearth and Fireplaces — Jambs — Woodwork around Chimneys.**

SECTION 36. Hearths, or grates, or fireplaces shall be laid on trimmer arches, not less than eight inches thick, or upon bars of iron supporting eight inches of brickwork.

Jambs of fireplaces and grates shall not be less than eight inches thick, and when arched over shall be securely tied to brickwork of chimney.

No woodwork shall be placed nearer than one inch from the outside brickwork of any flue, nor shall any timber or woodwork rest upon any corbel built out of any chimney. In no case shall nails be driven into the masonry of any flue.

No woodwork shall be placed nearer than one-half inch from any tin or other metal flue or pipe used, or intended to be used, to convey heated air or steam in any building, unless such flue be cased with metal, leaving a free circulation of air all around the same.

### **Smoke-Pipes.**

SECTION 37. No smoke-pipe shall enter any flue at a less distance than twelve inches from either the floor or ceiling, or at a less distance than six inches from any woodwork whatever, unless the same be properly protected; and in all cases where smoke-pipes pass through studs or wooden partitions of any kind, whether the same are plastered or not, they shall be guarded by a soapstone ring, not less than four inches thick and twelve inches square, which shall extend through the partition. No drain pipe or earthenware pipe of any kind shall be used for horizontal flues. All such flues shall be made of iron pipe laid in bricks and mortar, on iron bars; or two galvanized iron pipes (one within the other), with not less than two inch air space between them, may be used for this purpose. When chimney thimbles enter flues, the woodwork shall in no case be nearer than six inches all around the same.

### **Smoke-Pipes of Furnaces.**

SECTION 38. Furnace and boiler smoke-pipes shall be not less than one foot below the beams or ceiling joists, unless the same are protected by metal or other non-combustible material, suspended at least two inches below the said beams or joists.

### **Chimney-Thimbles.**

SECTION 39. The chimney-thimbles, commonly called "cast-iron" and "sheet-iron" chimney-thimbles, shall be built not less than four inches into the brickwork of the chimney. All chimney-thimbles shall be built into the chimneys at the time of their construction. Brickwork, when corbelled out to receive the thimble, shall be thoroughly bonded, and wood partitions of furrings around said brickwork shall not rest upon the same.

### **Cutting of Timber for Piping.**

SECTION 40. Cutting for piping or other purposes shall not be done so as to reduce the strength of the supporting parts below that required by ordinance; and in no case shall a floor timber, header or

trimmer of any building be cut into more than two inches in depth for piping, without permission from the inspector of buildings; and no cutting shall be made in any timber at a greater distance than three feet from its support.

### **Penalty.**

SECTION 41. Any person who shall violate any of the provisions of this ordinance, shall, except as herein otherwise specifically provided, be liable to a penalty of not less than ten nor more than one hundred dollars for each offence.

### **Definitions of Terms Used in This Ordinance.**

SECTION 42. In the construction of this ordinance the following terms shall have the respective meanings hereinafter assigned them:

"Foundation-wall" shall apply to that part of the outer wall of a building other than a party wall, below the level of the ground outside said wall.

"External wall" shall apply to that part of the outer wall of a building, other than a party wall, above the foundation wall.

"First floor," "second floor," and "third floor," shall be understood to mean respectively the first floor, second floor and third floor above the cellar or basement.

The thickness of walls required by this ordinance shall be understood to apply in every case to solid masonry, exclusive of any air space, and also to the minimum thickness of such walls.

"Chimney" shall apply to any permanent or fixed flue or passage built into any building for conveying away the products of combustion from furnaces, stoves, boilers, ranges, or fireplaces.

"Party wall" shall include (1) a wall built upon a dividing line for the joint use of two owners; (2) every wall built or used as a separation of two or more buildings.

"Partition wall" shall include any interior wall other than a party wall.

"Height of external walls" means the height of such walls from the street grade or surface of ground adjacent to such walls to the highest point of the wall.

SECTION 43. All orders, ordinances and parts of orders and ordinances, inconsistent with any of the preceding ordinances, are hereby repealed.

## PLUMBING.

### ORDINANCES.

#### **To Register with Board of Health.**

SECTION 1. No person shall carry on the business of plumbing in the City of Portland, hereafter, unless he shall have first, under such regulations as the board of health of the said city shall prescribe, registered his name and place of business at the office of the said board of health; and notice of any change of place of business of a registered plumber shall be immediately given at the office of said board of health.

#### **Permit to Be Obtained.**

SECTION 2. Every plumber before doing any work in a building, except in the case of repairs of leaks, shall file at the office of the board of health, upon blanks to be provided for that purpose, a plan of the work to be performed, and no plumbing work shall be done in any building without the approval of said board of health, and in accordance with such rules and regulations as the said board of health shall adopt and make public.

#### **Penalty.**

SECTION 3. Any violations of the provisions of the foregoing sections, or of the provisions of the rules and regulations prescribed by the board of health with reference to the registration of plumbers or methods of doing work, shall be deemed a misdemeanor and punished by a fine not exceeding twenty dollars.

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### RULES AND REGULATIONS OF BOARD OF HEALTH.

#### **Plumbers to Be Registered.**

SECTION 1. Every master or journeyman plumber engaged in business or doing work in the City of Portland, shall appear in person at the office of the board of health, room 8, City Building, at such times

as the board shall appoint, and register his name and place of business in accordance with an ordinance relating to the registration of plumbers, approved June 5, 1893.

### **Qualifications of Plumbers.**

SECTION 2. Each journeyman plumber and master plumber who does the work of a journeyman plumber, will be required to show to the board by an examination that he possesses the knowledge, ability and capacity requisite to do the work of his trade in a thorough and workmanlike manner.

### **Plumbers to Give Notice of Change of Residence.**

SECTION 3. It shall be the duty of every plumber to give to the secretary of the board immediate notice of any change of residence or place of business, for the correction of the register.

### **Plumbing and Drainage — How to Be Done.**

SECTION 4. The plumbing and drainage of all new buildings, and of those already built, when material alterations are made, must be done in accordance with plans and specifications submitted to, and approved by, the board of health, as required by an ordinance of the city council, approved June 5, 1893, and also in accordance with the following specifications.

*(Blanks for the above-mentioned specifications will be furnished by the board upon application therefor.)*

### **House Shall Be Connected to Sewers.**

SECTION 5. All houses and other buildings on premises abutting on a street in which there is a public sewer, shall be connected with the sewer by the owner or agent of the premises, in the most direct manner possible, and, if feasible, with a separate connection for each house or building.

### **Quality of Materials — Workmanship.**

SECTION 6. All materials used must be of good quality and free from defects. All work must be executed in a thorough and workmanlike manner, and no work shall be covered or in any way concealed, until it has been inspected and tested by said board of health, and a certificate of approval issued to the person doing the work.

For the purpose of this inspection and testing, due notice shall be given the board, in writing, when the work is sufficiently far advanced for its proper performance. If any work is found unsatisfactory, it shall be, within a certain time to be fixed by the board in each case, either made satisfactory or removed by the person doing the work or having it in charge; which, if he fails to do, the board will have the work done at his expense or that of the owner or agent, and the name of the plumber doing or responsible for the work shall be stricken from the list of registered plumbers.

### **Sewer Drain Pipe—How to Be Laid.**

SECTION 7. The drain from the sewer to the house-drain junction must be of hard, salt-glazed, cylindrical, earthen ware, cement or iron pipe free from defects and not less than six inches in diameter.

It must be laid upon a smooth bottom and in a perfect line, both laterally and vertically, with a fall of at least one-fourth of an inch to the foot, and more when practicable.

All joints in earthen or cement pipes must be uniformly and completely filled with best hydraulic cement, none of which must be forced into the pipe to obstruct its calibre, and in iron pipe either caulked with lead or have screw joints.

### **House Drain Pipe—How to Be Constructed.**

SECTION 8. The house drain, from a point at least five feet outside the cellar wall, shall be of extra heavy cast iron pipe, at least four inches in diameter and of uniform thickness, free from holes and cracks, and with tight caulked leaded joints (unless wrought iron pipe with screw joints is used); this pipe shall not be subjected to pressure when passing through the wall and shall extend by the most direct course to receive the fittings, to at least two feet above the roof of the building, undiminished in size, and its top shall not be obstructed by any hood or cowl, but may have a wire basket on its top; if in an addition or ell, its height must have a safe relation to the roof of the main house.

Above the highest fixture, standard pipe may be used. All horizontal portions shall have a fall of at least one-fourth inch to the foot, and more if practicable; shall be firmly ironed or secured to the cellar walls, suspended from or laid on floor timbers, unless this is impracticable, in which case they may be laid in a brick or cemented trench in the cellar bottom. There should be a main running trap with an accessible clean-out, with gas-tight plug or cover and a water seal of sufficient



depth, either just outside or just inside the cellar wall, and also an inlet for fresh air, to enter the drain just inside the main trap, said inlet to be at least three inches in diameter and to open on the outside of the building, not less than eight feet from the nearest window or cold air draft for the furnace. The main drain should also have an opening for cleaning purposes, closed with a brass screw plug or a Barrett clean-out.

All fittings used in connection with this drain or soil pipe, must correspond with it in weight and quality.

### **Traps — Vent Pipes — Drip or Overflow Pipes.**

SECTION 9. Every sink, basin, bath tub, slop-hopper, and each set of trays, and every fixture having a waste pipe, shall be furnished with a trap placed as near fixture as practicable, and no trap shall be placed at the bottom of a vertical line of waste pipe; all traps, requiring it, shall be protected from air pressure or siphonage by a special air pipe of not less than one and one-fourth inch diameter, extending through the roof to a height of at least two feet, or into soil pipe above the highest fixture, or some other appliance approved by the board. Vent pipes or water-closet traps must be of not less than two-inch bore for thirty feet or less, and of three-inch bore for more than thirty feet. No trap vent pipe shall be used as a soil or waste pipe. All vent pipes must have a continuous pitch to prevent collecting water by condensation. Drip or overflow pipes from safes under fixtures, or from tanks, shall be run into some open place where they can be seen, and in no case connected with a soil or waste pipe.

### **Ventilators — Rain-Water Leaders.**

SECTION 10. No ventilator for sewer, soil or waste pipe, trap or drain shall be constructed of brick, sheet metal or earthen ware, nor shall any chimney flue be used for such ventilator. Rain water leaders, when connected with soil or drain pipes, shall be of iron through the outside wall, connected with deep sealed trap, with clean-out on house side. All surface drainage shall be connected with deep sealed traps. All sub-soil drains shall have a trap outside the cellar wall and connect with drain or sewer at least five feet outside of said wall.

### **Water-Closets.**

SECTION 11. Every water-closet must be supplied with water from a tank or cistern, and the flushing pipe shall not be less than one and

one-fourth inches inside diameter. No pan closet will be allowed, nor shall any closet be flushed direct from Sebago pipes. Water-closets in the cellar of tenement or lodging houses will only be allowed by special permission of the board of health.

### **Weight of Iron Pipe — Joints — Lead.**

SECTION 12. The following weights of iron pipe, per lineal foot, will be considered as "extra heavy," to wit:

Two-inch,	.	.	.	.	.	.	5½ pounds.
Three-inch,	.	.	.	.	.	.	9½ "
Four-inch,	.	.	.	.	.	.	13 "
Five-inch,	.	.	.	.	.	.	17 "
Six-inch,	.	.	.	.	.	.	20 "

All joints in cast iron drain, soil, waste and vent pipes, shall be run with hot lead resting upon a gasket of oakum and caulked gas tight. The amount of lead required is about twelve ounces to each inch of diameter of pipe.

### **Tests.**

SECTION 13. The test mentioned in Section 6, shall be applied by the plumber closing all openings in soil, drain, waste and vent pipes, and filling the system with water to its top, in the presence of the board, or its duly accredited inspector, and after all connections are made and the water admitted to fill the traps, either the "Peppermint," "Ether" or "Smoke" tests shall be applied by the board or its inspector. If any leaky pipe is found it must be replaced by new, and any leaky joints must be made tight.

### **Connections.**

SECTION 14. All connections of lead with iron pipes must be made with a brass sleeve or ferrule of the same size as the lead pipe, and securely fastened to it by a wiped or overcast joint, and to the iron by a lead-caulked joint. All connections of lead waste pipes and vent pipes shall be made by means of wiped joints.

### **Waste Pipes — Exhaust from Boilers — How Connected.**

SECTION 15. The waste pipes from refrigerators shall in no case be directly connected with any soil or waste pipe, drain or sewer, nor shall rain water leaders be used as soil, waste or vent pipes. No steam

exhaust, blow-off or drip pipe from a steam boiler shall connect with any drain, soil or waste pipe without the intervention of a condensation tank.

**Bath Tub and Bowl Pipes — How Connected.**

SECTION 16. No waste pipe from bowl or bath tub shall be connected with water-closet trap, nor shall any bath tub waste pipe be connected with a waste pipe from a wash bowl or sink.

**Deviations and Variations.**

SECTION 17. Deviations and variations from these rules will be allowed when desired only when in the opinion of the board they will not be liable to become a source of danger to the public health.

Approved June 22, 1893.

C. W. WALTON,  
*Justice Supreme Judicial Court.*

## CHAPTER 12.

# CARRIAGES AND OTHER VEHICLES.

### LAW OF THE ROAD, ETC.

#### Statutes.

(R. S., Chapter 19.)

#### Definition of "Way" and "Team."

SECTION 1. As used in this chapter, the word "way" includes all kinds of public ways, and the word "team" includes all kinds of conveyances on such ways for persons and for property.

#### Keep to the Right.

SECTION 2. When persons traveling with a team are approaching to meet on a way, they shall seasonably turn to the right of the middle of the traveled part of it, so far that they can pass each other without interference. When it is unsafe or difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, shall stop a reasonable time at a convenient place to enable the other to pass.

(NOTE. One may lawfully pass on the left side of the road, or across it, for the purpose of turning up to a house, store, or other place on that side of the road, yet, in so doing, he must not obstruct persons who are lawfully passing along on the same side. *Palmer vs. Barker*, 11 Me. 338.

When it is not practicable for a person, meeting another with a team on the road, to turn to the right of the middle of the road, he should stop a reasonable time at a convenient part of the road to enable the other person to pass, and without any request from such other person so to do. *Kennard vs. Burton*, 25 Me. 39.

By the words "traveled part" of the road is intended that part which is usually wrought for traveling, and not any track which may happen to be made in the road by the passing of vehicles. 4 Pick. 125. 8 Met. 216. But when that part of a road which is wrought for traveling is hidden by snow, and a path is beaten and traveled on the side of

the wrought path, persons meeting on such beaten and traveled path are required to drive their vehicles to the right of the middle of such path. 8 Met. 213.

The provision of the statute requiring travelers meeting each other to "seasonably turn to the right," does not apply to a case where one vehicle is passing along a street and another is turning into the same street from a cross street intersecting it, but is applicable only where vehicles meet in passing each other in the same street. 10 Cush. 495.)

**Teams Stationary, or Moving Slowly, Must Allow Others to Pass.**

SECTION 3. When a person with a team is stationary, or traveling slowly on a way at a place unsafe or inconvenient for passing him with a team, he shall, if requested, drive to the right or left, or stop a reasonable time at a convenient place, to allow the other to pass.

(NOTE. It is the right of every one to travel on any part of a highway he may choose if he does not trespass upon the rights of others. Dunham vs. Rackliff, 71 Me. 345.)

**Teams Not to Obstruct Passage.**

SECTION 4. No person shall leave his team stationary on a way so as to obstruct the free passage of other teams; or allow his team to be on a way without a driver.

**Bells.**

SECTION 5. Three or more bells must be fastened to one of the foremost horses drawing teams on snow without wheels.

**Penalty.**

SECTION 6. Any person violating any of the provisions of the foregoing section shall forfeit not less than one nor more than twenty dollars, to be recovered on complaint made within sixty days.

**Teams in Crossing Bridge, Horses Must Walk.**

SECTION 7. No team shall travel faster than a walk on a bridge erected wholly or partly by the State, or on any bridge covered with plank and fifty feet long, composing part of a way, or on any bridge owned by a corporation, if a board with the words "Three dollars fine for riding or driving on this bridge faster than a walk," legibly painted in black letters on a white ground, is kept exposed in some conspicuous place at each end thereof.

**Penalty.**

SECTION 8. Whoever violates the preceding section forfeits three dollars, to be recovered on complaint made by any owner of said bridge, or by any municipal officer of the town in which it is located, to the owners of the bridge, or to the town required to keep it in repair; but no person passing after sunset and before sunrise is so liable without proof that he previously had knowledge of such prohibition.

**Driver Not to Leave Team without Fastening Same.**

SECTION 9. If the driver of a team having passengers therein conveyed for hire, leaves it without any person in charge and without fastening it securely, he may be fined not exceeding thirty dollars or imprisoned not exceeding one month.

**Authority of City to Enact Laws Respecting Vehicles.**

SECTION 10. Cities may make By-laws or ordinances not inconsistent with law, and enforce them by suitable penalties, for the regulation of all vehicles used therein, by establishing the rates of fare, routes and places of standing, and in any other respect; but By-laws and ordinances for this purpose shall be published one week at least before they take effect, in some newspaper printed therein, \* \* \* \* \* and penalties for their breach shall not exceed twenty dollars for one offence, to be recovered by complaint to the use of such city, town or corporation. (R. S., Chapter 3, Section 59, Par. IX.)

**Authority of City to Enact Laws Respecting Bicycles.**

SECTION 11. Cities may make By-laws or ordinances not inconsistent with law, and enforce them by suitable penalties, for establishing police regulations, for the prevention of crime, protection of property and preservation of good order, and to regulate the use and manner of the use of bicycles in the streets in the night time.

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**ORDINANCES.****VEHICLES FOR CONVEYANCE OF PERSONS.****Hackney Carriage Defined.**

SECTION 1. Every hack, coach, cab, barouche or other vehicle (except railway cars), whether on wheels or runners, which shall be used for the conveyance of persons, for hire, from place to place within the city, shall be deemed a hackney carriage within the meaning of this ordinance.

**License Required.**

SECTION 2. No person shall set up, use or drive, any hackney carriage for the conveyance of persons, for hire, from place to place within the city unless he shall have obtained a license so to do as hereinafter provided.

**Licenses, How Granted — Fee — Certificate — Police Contingent Fund.**

SECTION 3. The city marshal may grant licenses, for the purposes stated in the preceding section, to such persons as he may deem suitable, and may revoke such licenses at his discretion. He shall cause the certificates of licenses to be numbered consecutively as issued and shall keep a record thereof. Every licensee shall pay to the city marshal a fee of twenty-five cents for such license and no other fee shall be required for any license granted under the provisions of this ordinance. All fees shall be paid over to the city treasurer and when so paid shall be added to the police contingent fund.

**When Licenses Shall Expire — Transfer of Licenses.**

SECTION 4. All licenses granted as aforesaid shall expire on the first day of July next after the date thereof. No license shall be sold, assigned or transferred.

**Licensee and Owner Liable, When.**

SECTION 5. The licensee and the owner of the licensed hackney carriage shall be liable to the penalties herein contained, unless upon the sale of said carriage notice thereof is given to the city marshal and the license certificate delivered up to him.

**Carriages, How Marked — Penalty for Improper Numbering.**

SECTION 6. Hackney carriages shall be marked and numbered in the manner following, viz.: Every hackney carriage licensed shall be marked upon the outside and upon each side, on the lanterns or on the driver's seat in a conspicuous place, with the number of the license, with white, gilded or plated figures, in the Arabic character, of not less than one inch and a half in size on a dark ground, or with a dark figure of the same size on a light ground, and no other figure or device within four inches of the same. The name of the owner and the number of the license, together with the date of inspection and rates of fare, shall be printed on a card of suitable size, and placed in all the hackney carriages by the city marshal at the time of inspection, in the most conspicuous place, for the information of passengers. No owner or

driver of any hackney carriage shall use, or suffer such carriage to be used, with any other number upon the same than that assigned by the city marshal, nor place the number on any other part of such carriage than that designated in this section, or without the card supplied by the city marshal posted in a conspicuous place in full view of passengers. And if any owner or driver of any hackney carriage shall use or drive any such carriage, or permit the same to be used and driven, without complying with the foregoing requirements, said owner and driver shall each be liable to the penalty provided in Section 31 of this chapter.

#### **Stands.**

SECTION 7. The city marshal, when granting licenses under the provisions of Section 3, may designate a stand for such carriage, and no driver, owner, or other person having charge of any hackney carriage, shall stand with such carriage, awaiting employment, at any place within the city other than that designated by the city marshal, as aforesaid and inserted in the certificate of license issued by him under the provisions of Section 3. But nothing herein contained shall be held to prohibit persons licensed as aforesaid from going to, and under proper and reasonable rules and regulations remaining at all depots, railroad stations, boat landings, or other public places, including hotels, theatres, and other places of public amusement and entertainment, for the purpose of conveying passengers thereto or securing employment to convey passengers therefrom. Said rules and regulations shall be subject to the approval of the proprietors of said depots, railroad stations, boat landings, hotels, theatres and other places of amusement and entertainment, in so far as said proprietors are respectively affected thereby.

#### **Badge on Hat.**

SECTION 8. Every owner, driver or other person having charge of any hackney carriage, shall at all times when driving upon the streets or when soliciting employment, or while engaged in the service, in any public place, of a passenger by whom he has been employed, wear a badge on his hat or cap with the number of his carriage thereon in brass or plated figures of not less than one inch in size, and so placed that the same may be distinctly seen and read; and he shall not wear upon his hat or display upon his carriage the name of any public hotel without permission of the proprietor thereof.

This section shall not apply to the owner or driver of any carriage while in use for funeral or wedding services.



**Stands at Theatres, Etc.**

SECTION 9. In any street or square, or at any theatre, museum, or other place of public amusement, where hackney carriages attend for passengers, the city marshal, or any police officer, by him authorized, may give directions respecting the standing of such carriages, while waiting for their passengers, and the route they shall go when going to, or leaving any such place of entertainment; and if any owner, driver, or other person having charge of any such carriage, shall refuse to obey such order or directions of the city marshal or any police officer by him authorized, he or they shall be liable to the penalty provided in Section 31 of this chapter.

**Who May Solicit.**

SECTION 10. No person except the owners or drivers of hackney carriages, shall solicit or request, nor shall the owners or drivers of any hackney carriage, hire, employ, or permit any person to solicit or request any person or persons in the public streets, at places of public amusement, at railroad stations, steamboat landings, or any other public place in the city, to hire, engage or employ any hackney carriage

**Rates of Fare.**

SECTION 11. The prices or rates of fare to be taken by, or paid to the owner, driver, or other person having charge of any hackney carriages, except omnibuses, for carrying a passenger from one place to another within the city, and within wards, one, two, three, four, five, six and seven, and so much of ward eight as is included in the following bounds, viz.: Beginning at Fore River at the extension of Douglass street, thence through said Douglass street including both sides thereof to Brighton avenue; thence through Brighton avenue, including both sides, thence to Beacon street; thence through Beacon street, including both sides, thence to Woodford street; thence through Woodford street, including both sides, thence to Back Bay; thence by shore of Back Bay and by the boundary lines of the harbor and Fore River to point of beginning; also so much of ward nine as is included in the following bounds, viz.: Beginning at Back Bay at the extension of Galvin street; thence through said Galvin street including both sides thereof to Washington avenue; thence on a direct line passing through the intersection of Winslow and Veranda streets to the harbor; thence following the line of the shore to the

place of beginning, shall be as follows: not exceeding fifty cents at any hour of the day or night; and to any other points outside the said limits and within the city limits the fee shall be twenty-five cents per mile additional, or any part of a mile; for children between the ages of four and twelve years, if more than one, or if accompanied by an adult, half price only is to be charged for each child; and for children under four years of age, when accompanied by their parents or an adult, no charge is to be made. Every owner, driver or other person having charge of any hackney carriage, shall carry in addition to one trunk, two articles, such as a valise, saddle bag, carpetbag, portmanteau, box, bundle, or other similar articles used in traveling, if he be requested so to do, without charge or compensation therefor; but for every additional trunk, or similar article he may carry, he shall be entitled to demand and receive not exceeding twenty-five cents for each article. If any driver or other person shall demand and receive any greater sum for his services as specified in this section, or shall wilfully refuse to answer the demand of any person or persons for conveyance from one place to another within the city, he shall be liable to the fine stated in Section 31.

#### **City Marshal to Inspect.**

SECTION 12. The city marshal shall inspect all hackney carriages before a license is granted for use of the same, and also upon the first Monday in July and January of each year. And the owners of licensed hackney carriages shall cause them to be presented to the city marshal for inspection upon the days above mentioned, at such hour and place as the city marshal may appoint, and the city marshal shall cause public notice to be given of the hour and place at which he will inspect such carriages, at least one week prior to the first Monday in July and January of each year. And if any owner of any licensed hackney carriage shall neglect to present the same for inspection as above provided for, his license for the use of such carriage shall be suspended until such inspection is made. If upon such inspection any carriage is found in an unsuitable condition, either as regards strength, general good order, or cleanliness in any of its appointments for the safe and comfortable conveyance of passengers, the city marshal shall notify the owner thereof to place such carriage in proper repair, and the license of such carriage shall be suspended until the required repairs shall have been made to the satisfaction of the city marshal.

## VEHICLES FOR CONVEYANCE OF MERCHANDISE.

**Trucks, Wagons, Etc., to Be Licensed and Numbered.**

SECTION 13. Every truck, wagon, dray, cart, sleigh, handcart, hand sled, or other vehicle, which shall be used in this city for the conveyance, for hire, from place to place within the city, of wood, coal, lumber, stones, brick, sand, clay, gravel, dirt, rubbish, goods, wares, furniture, merchandise, building materials, or any other article or thing whatsoever, shall be licensed as hereinafter provided, and shall have the number of the license placed on the outside of the same, in plain, legible figures, of not less than one inch in size, so that the same may be distinctly seen. And if the owner of any such vehicle shall use or suffer the same to be used, or if any other person shall use any such vehicle, without being licensed as hereinafter provided, or without having the number placed thereon, as aforesaid, he or either of them shall be liable to the penalty provided in Section 31 of this chapter.

**Commissioners of Trucks and Wagons.**

SECTION 14. The mayor shall on the first Monday of May of each year appoint a commission of not less than three persons to be called the commission of trucks and wagons. Said commissioners shall be appointed for one, two and three years, respectively, at the first appointment under this ordinance; and thereafter one shall be appointed each year to hold for the term of three years; and in case a vacancy shall occur, it shall be filled in the same manner for the unexpired term. Said commissioners are hereby authorized to draft suitable rules and regulations for the examination of applicants for licenses to drive all vehicles included in Section 13, which rules and regulations shall be submitted to the city council for approval.

After the adoption of such rules and regulations by the city council, said commissioners shall meet once a month and upon request of any applicant or applicants for licenses at the city building for examination of applicants for licenses to be drivers of vehicles, included in Section 13, and shall, within twenty-four hours after each and every examination, report the result of such examination, with recommendations, to the city clerk, who shall lay the matter before the mayor, or, in his absence, before the chairman of the board of aldermen, or, in the absence of the mayor and chairman of the board of aldermen, to the president of the common council, who shall in the order named, and upon recommendation of said commissioners, grant licenses for the purposes hereinbefore

mentioned, and such licenses may be revoked by the mayor. Every licensee shall at all times, while driving upon the streets, or when soliciting employment or while engaged in the service, wear a badge on his hat or cap, with the number of his license thereon in brass or plate figures of not less than one inch in size, and so placed that it may be distinctly seen and read. Each licensee shall pay to the city treasurer a fee of one dollar.

#### **Licenses for Trucks, Etc., Expire, When.**

SECTION 15. All licenses granted as aforesaid shall expire on the first day of July next after the date thereof. No license shall be sold, assigned, or transferred.

#### **Licenses of Trucks, Etc., Liable to Penalties.**

SECTION 16. The licensee and the owner of the licensed vehicle shall be liable to the penalties herein contained, unless upon the sale of any such vehicle notice thereof is given to the city marshal, and the license certificate delivered up to him.

#### **Trucks, Etc., Not to Be Used for Unlawful Purpose.**

SECTION 17. Any person licensed as aforesaid, either as owner or driver of any of the before mentioned vehicles, who shall use or suffer to be used any such vehicle or vehicles for any unlawful purpose, shall be liable to the penalty provided in Section 31 of this chapter.

#### **Stands.**

SECTION 18. The city marshal is authorized and empowered to appoint from time to time, as occasion may require, such and so many stands for trucks, carts, wagons, sleds, sleighs, hackney coaches, and other vehicles, as may appear to him to be requisite; and no owner or driver of any such vehicle shall suffer the same to stand in any other place than has been or shall be designated, under the penalty hereinafter stated. But nothing herein contained shall be construed to prohibit the owners and drivers of any such vehicle from going to, and under proper rules and regulations, remaining at all such places as are specified in Section 7 of said ordinances for the purposes specified in said section.

#### **Licensee to Obey Rules and Regulations.**

SECTION 19. Every person licensed by virtue of the preceding sections shall be bound to obey and comply with all rules and regula-

tions and ordinances that are or may be from time to time prescribed by the city council.

### **Dead Bodies Not to Be Carried in Job Wagons, Etc.**

SECTION 20. No driver of any hack, job wagon, or express wagon, or any other vehicle, except a duly appointed and licensed undertaker, shall transport through this city, or from one place to another in this city, any dead body which is to be buried in any cemetery belonging to the city, without permission of the superintendent of burials, under the penalty provided in Section 31 of this chapter.

### **GENERAL PROVISIONS.**

### **Not to Feed Horses in Streets.**

SECTION 21. No owner or driver of any hackney carriage, truck, wagon, dray, cart, sleigh, sled, or any other vehicle whatsoever, with horse or any other beast harnessed thereto, shall bait or feed any such beast on any sidewalk or street of the city under the penalty stated in Section 31.

### **Riding without Permission.**

SECTION 22. No person shall ride upon or take hold of any part of a hackney carriage while the same is passing, without the permission of the driver or person having the charge thereof, under the penalty provided in Section 31 of this chapter.

### **Obstructing Street Crosswalks—Penalty.**

SECTION 23. No owner, driver, or other person having the care of any carriage, truck, cart, wagon, sleigh, sled, or other vehicle, whether used for burden or pleasure, shall stop or place such vehicle at or near the intersection of any street, lane, or alley, in such manner as to cross the footing or flagstones, or prevent foot passengers from passing the street, lane, or alley in the direction or line of the footway or flagstone, on the side of such street, lane, or alley. Whoever shall violate the provisions of this section shall be liable to the penalty provided in Section 31 of this ordinance. Any person who shall have placed any such vehicle in the manner described in this section, and shall not immediately, on the request of any foot passenger, cause the same to be removed, or who shall absent himself so that such request cannot be immediately made and complied with, shall be liable to the penalty provided in Section 31 of this chapter.

**Obstructing the Passing of Other Vehicles.**

SECTION 24. Every owner, driver, or other person having the care or ordering of any cart, truck, wagon, sled, or other vehicle left standing in the street, shall place his horse and cart, truck, wagon, sled, or other vehicle, as near as possible to the post or abutting stone of the foot or sidewalk of the street in which he shall stand. No more than one range of carts, trucks, or other vehicles shall stand in any street, nor shall any such vehicle so stand as to prevent the free passage of any other vehicle in the streets. No such vehicle shall be wholly or in part backed or placed across any street, square, lane, or alley, or upon any sidewalk or footway of the same, unless it be for a reasonable time, not exceeding ten minutes, for the loading or unloading of heavy articles. Any owner, driver, or other person having the care of any such vehicle, violating any of the provisions of this section, shall be liable to the penalty provided in Section 31 of this chapter.

**Rate of Speed of Heavy Vehicles—Six Miles Per Hour.**

SECTION 25. All drivers or other persons having the care and ordering of any truck, cart, wagon, sled or dray, passing in or through the streets, squares, or lanes of the city, shall drive their horses or beasts at a moderate foot pace, and shall not suffer or permit them to go into a gallop; and such drivers or other persons shall hold the reins in their hands to guide or restrain such horses or beasts, or they shall walk by the head of the shaft, or wheel horse, either holding or keeping within reach of the bridle or halter of said horse or other beast, and in no case shall such vehicle be driven at a greater rate of speed than six miles per hour.

**Rate of Speed of Light Vehicles—Eight Miles Per Hour.**

SECTION 26. No driver of any vehicle, whether drawn by animal power or propelled by other power, shall drive at a greater rate of speed than eight miles an hour.

**Control and Rate of Speed of Bicycles—Eight Miles Per Hour.**

SECTION 27. No person using a bicycle, tricycle, velocipede, automobile, or other such vehicle of propulsion on the public streets or parks of the City of Portland shall ride such bicycle, tricycle, velocipede, automobile, or other vehicle of propulsion, in a reckless or dangerous

manner, and without at all times keeping such bicycle, tricycle, velocipede, automobile, or other such vehicle of propulsion under proper control, and in no case shall any person propel such bicycle, tricycle, velocipede, automobile, or other vehicle of propulsion in the public streets or parks of the City of Portland at a greater rate of speed than eight miles an hour.

### **Bicycles Not to Be Ridden, Where.**

SECTION 28. No person shall ride a bicycle, tricycle, velocipede, automobile, or other such vehicle of propulsion upon any sidewalk in the city, or upon any walk, footpath or turf in any of the public parks, promenades or other public grounds of the City of Portland.

### **Bells, Etc., on Bicycles, Etc.**

SECTION 29. Every person using a bicycle, tricycle, velocipede, automobile, or other such vehicle of propulsion on the public streets or parks of the City of Portland shall carry at all times a suitable alarm bell, horn or whistle, which shall be reasonably sounded for the purpose of giving warning to pedestrians and occupants of other vehicles of the approach of such bicycle, tricycle, velocipede, automobile, or other such vehicle.

### **Bells on Vehicles—Carriages in General.**

SECTION 30. No carriage or vehicle of any description, except street cars, shall be driven through any part of the City of Portland, during any time that the snow or ice shall be upon, or cover the streets, squares, lanes, or alleys of the said city, unless there shall be three or more bells attached to the horse or horses, or some part of the harness or shaft thereof.

### **Penalty.**

SECTION 31. Whoever shall violate any of the provisions of any of the preceding sections shall be liable to a penalty not exceeding twenty dollars for each offence, to be recovered for the use of the city by complaint before the Municipal Court for the City of Portland.

## **CHAPTER 13.**

# **CEMETERIES.**

### **Statutes.**

(R. S., Chapter 15.)

#### **City May Raise Money to Purchase Cemeteries.**

**SECTION 1.** Towns may raise and assess money necessary for purchasing and suitably fencing land for a burying ground. (Section 1.)

#### **Municipal Officers May Enlarge Cemeteries, When.**

**SECTION 2.** The municipal officers of any town may, on petition of ten voters, enlarge any public cemetery or burying yard or incorporated cemetery or burying yard within their town, by taking land of adjacent owners, to be paid for by the town or otherwise, as the municipal officers may direct, when in their judgment public necessity requires it, provided that the limits thereof shall not be extended nearer any dwelling-house than twenty-five rods, against the written protest of the owner, made to said officers at the time of the hearing on said petition. Nor shall any person, corporation or association establish, locate or enlarge any cemetery or burying ground by selling or otherwise disposing of lots so that the limits thereof shall be extended nearer any dwelling house than twenty-five rods, against the written protest of the owner, provided that nothing in this section shall prohibit the sale or disposition of lots within the limits of any existing cemetery or burying ground, nor the extension thereof away from any dwelling house. (Section 9.)

#### **Notice of Hearing to Be Given.**

**SECTION 3.** Notice of a time and place for said hearing shall be given by posting written notice thereof, signed by said officers, at least seven days prior thereto, in two places in said town; and a copy of such notice and of the petition shall be served on the owners of the land at least ten days before the day of hearing. (Section 10.)



**Land Damages, How Determined—Return to Be Filed—Vote of Town.**

SECTION 4. If the municipal officers at such hearing grant the prayer of the petitioners, they shall then determine what land shall be taken, and assess the damages suffered by each person thereby, make a written return of their proceedings, specifying the land taken and the damages awarded each person, and file the same with the town clerk; and such cemetery or burying yard shall not be enlarged, pursuant to such return, until so voted by the town at its next annual meeting. (Section 11.)

**Aggrieved Person May Petition County Commissioners.**

SECTION 5. Any person aggrieved by the amount of damages awarded may, on petition to the county commissioners, have them assessed in the manner provided respecting highways. (Section 12.)

**Private Cemetery May Become Public, How.**

SECTION 6. Any private cemetery or burying ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated, may, by vote of such town within one month after the recording of such agreement by the town clerk, become public and subject to the law relating to public cemeteries or burying grounds; provided, that such agreement is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying ground. (Section 13.)

**City May Accept Title to Land for Private Cemetery—City May Hold Funds in Trust.**

SECTION 7. Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding half an acre, to be forever held, kept and used for a private or family burying ground for the grantors and such of their relatives, by blood, or marriage, as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying ground, are forever inalienable and indivisible, and exempt from liability for debt; such city, town, corporation or trustee may also accept and forever hold any donation or legacy for insuring proper care and attention to any

burial lot or ground and the avenues thereof and monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust, as specified in writing creating the same, or in default of such specification, as required by law, and as in cases of public charity.

Any city or town, without giving bond therefor, may be appointed by the Probate Court testamentary trustee for the purpose of holding forever, in accordance with the provisions of this section and the terms of the devise, any fund devised for the purposes aforesaid.

The provisions of the foregoing amendment shall apply to wills which have been probated since January first, eighteen hundred and ninety-two. (Section 14.) 77 Me. 186.

### **Investment of Trust Funds.**

SECTION 8. Every trust authorized by the preceding section shall be safely invested in United States, State, county, city or town securities, and the income only shall be expended in performance of the requirements of the trust. (Section 15.)

### **City May Hold Money in Trust for Cemetery Purposes.**

SECTION 9. Any person owning or interested in a lot in a public burial place of a city or town, may deposit with the treasurer of such city or town, a sum of money not exceeding five hundred dollars, for the purpose of providing for the preservation and care of such lot or its appurtenances, which sum shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or By-laws of such city or town in relation to burials. (P. L. of Me., 1887, Chapter 145.)

### **City May Pass By-Laws for Purposes Stated in Section 9.**

SECTION 10. A city or town may pass such ordinances or By-laws as may be necessary for the purposes of this Act and not repugnant to law, and may receive such money for said purposes, and may allow interest thereon at a rate not exceeding six per cent. a year. (P. L. of Me., 1887, Chapter 145.)

### **City May Accept Lot in Trust.**

SECTION 11. When any person, owning or interested in a lot in a public burial place in a city or town, deposits with the treasurer of such

city or town a sum of money for the preservation or care of such lot as provided by Section 9, said city or town may accept a conveyance of such lot for the uses and upon the trusts which may be set forth in said conveyance, and may bind itself to keep and perform the agreements, uses and trusts as are contained in the deed of conveyance of such lot. (P. L. of Me., 1897, Chapter 216.)

### **Injury to Monuments, Etc.**

SECTION 12. Whoever wilfully destroys or injures any tomb, grave-stone, monument, or other object placed or designed as a memorial of the dead, or any fence, railing or other thing placed about or inclosing a burial place, or wilfully injures, removes, or destroys any tree, shrub, or plant within such inclosure, shall be punished by imprisonment for less than one year, or by a fine not exceeding five hundred dollars. (R. S., Chapter 124, Section 28.)

### **City May Make Ordinances for Evergreen Cemetery.**

SECTION 13. The City of Portland may ordain reasonable By-laws and regulations for the government of Evergreen Cemetery, and shall have full power and authority to impose and enforce penalties for the breach thereof, and for the punishment of offences committed in said cemetery. All By-laws and regulations heretofore ordained by said City of Portland for the government of Evergreen Cemetery are, and shall be valid and in force; and all penalties imposed under the same and for the punishment of offences committed in said cemetery, shall be enforced. (City Charter, Additional Acts, Page 59.)

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## **COMMISSIONERS OF CEMETERIES AND PUBLIC GROUNDS.**

(P. L., 1885, Chapter 509.)

### **Appointment of Commission of Cemeteries and Public Grounds.**

SECTION 1. The mayor of the City of Portland is hereby authorized and empowered to appoint, subject to the approval of the board of aldermen, a commission of not less than three persons, to be called the commission of cemeteries and public grounds.

**SECTION 2.** Said commissioners shall be appointed for one, two and three years respectively, at the first appointment under this Act; and thereafter one shall be appointed each year, to hold for the term of three years; and in case a vacancy shall occur, it may be filled in the same manner for the unexpired term.

**SECTION 3.** Said commissioners shall have charge and control of all the cemeteries, other than Evergreen Cemetery, together with the parks, promenades, squares and other grounds, which are or may hereafter be reserved for ornamental uses, belonging to the city; and under their direction, all appropriations made for cemeteries and grounds, shall be expended. Said commissioners are authorized to elect annually, a superintendent, who may be one of their number, and who shall perform such duties as the commissioners prescribe. The commissioners shall set aside a reasonable portion of the appropriation for cemeteries and public grounds as the compensation of said superintendent, and the same shall be paid to him in equal monthly payments.

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## ORDINANCES.

### FOREST CITY CEMETERY.

#### **Land Appropriated for Forest City Cemetery — City Treasurer to Execute Deed.**

**SECTION 1.** So much of the tract of land lying northwest of the fence of the Kennebec and Portland railroad, in the town of Cape Elizabeth, purchased by the city of Samuel Haskell, as per his deed, dated August 12, 1858, is hereby set apart and appropriated for the burial of the dead, and the same shall be called and known by the name of the "Forest City Cemetery," according to the plan thereof made by Charles H. Howe, city engineer, and adopted and established by the city council on the seventeenth day of September, A. D. 1858.

Sixteen and seventy-one one-hundredths acres of this cemetery were sold to D. W. Clark & Co., by order March 7, 1879, and eleven and six-tenths acres to same parties, by order June 10, 1879. City Records, Vol. 19, p. 457 and Vol. 20, p. 37. For full description of lots sold and of the present boundary of cemetery see plans in city engineer's office. By a division of the Town of Cape Elizabeth this cemetery is now within the limits of the City of South Portland.

**City Treasurer to Keep Record, Etc. — Ibid.**

SECTION 2. The city treasurer, on the payment of the sum fixed upon said lots, in the schedule of the same, on the aforesaid plan of Charles H. Howe, by any person, shall be, and hereby is required to execute and deliver to said person, his heirs and assigns forever, a certificate of said lot, signed by him, similar in form and upon the same terms as the certificate now given for lots in Evergreen Cemetery.

**City Treasurer to Keep Record of Lots Sold, Etc.**

SECTION 3. The city treasurer shall keep a record of all the lots sold in said cemetery, and an account of all the moneys received for the same, and shall annually report to the city council a statement of all lots sold, and assigned by him, with the names of the purchasers, and amount received by him therefor. And all moneys so received shall be, and hereby are constituted a fund, to be appropriated exclusively for the purpose of improving and ornamenting said cemetery.

**Forest City Cemetery, Exchange of Lots in.**

SECTION 4. The commissioners of cemeteries and public grounds are hereby authorized, at any time, to exchange, free of cost, any lot in Forest City Cemetery for a lot in the Eastern or Western Cemetery in this city, and the city treasurer, upon the written request of said commissioners, shall make, execute and deliver a certificate of such lot free of charge, if so requested by said commissioner.

**No Sale or Exchange of Lots Except by Consent of Commissioners.**

SECTION 5. No sale or exchange of lots or of places for interment in Forest City Cemetery shall be made hereafter except under the supervision and direction of the commissioners of cemeteries and public grounds.

**Forest City Cemetery — Graves — Sale of — Persons Not Able to Purchase Lots.**

SECTION 6. The commissioners of cemeteries and public grounds may and they are hereby authorized to set apart a plat of land in Forest City Cemetery to be kept in good condition for the sale of graves to persons unable to purchase lots, and the commissioners are authorized

to adopt and regulate such price for the same as in their judgment is just and proper, and if any person purchasing a grave shall thereafter purchase the right of occupancy in any lot in the cemetery and remove such body, such person shall be allowed in such purchase the cost of said grave exclusive of the cost of opening and filling the same, and in case of such removal the space so vacated, and the right to occupy the same, shall revert to the city.

#### WESTERN CEMETERY.

##### **No Bodies to Be Buried in Western Cemetery -- Exception.**

SECTION 1. All interments of the dead in the Western Cemetery in Portland are hereby expressly forbidden, except upon the special written permit of the board of commissioners of cemeteries and public grounds first obtained therefor.

##### **Permit Not to Be Effective Except in Certain Cases.**

SECTION 2. No such permit shall be granted by said board, nor be valid, except for the burial of those who were natives, or who died residents of Portland, and who were at their deaths the owners, or members of the immediate families of owners, of private lots in that cemetery.

##### **Exchange of Lots in Western Cemetery.**

SECTION 3. The board of mayor and aldermen acting with the trustees of Evergreen Cemetery are hereby authorized at any time, free from cost, or upon such terms as they may determine, to exchange any lot to which the city has full title in Evergreen Cemetery, for any lot in the Western Cemetery now held by a private owner, upon condition of the immediate removal of the remains of the dead from such lot in the Western Cemetery.

#### EASTERN CEMETERY.

##### **Interment of Dead.**

SECTION 1. No interments of the dead shall hereafter be permitted in the Eastern Cemetery excepting in the following cases, viz.:

- I. Where bodies shall be placed in tombs now constructed.
- II. Where a member of the deceased person's family is buried in a lot the bounds of which are clearly defined.

### **No Interment without Consent of Commissioners.**

SECTION 2. No person shall open any grave nor deposit any body within said cemetery unless permitted so to do by the commissioners of cemeteries and public grounds.

### **EVERGREEN CEMETERY.**

#### **History.**

SECTION 1. The tracts of land containing about fifty-five acres, situated in that part of Portland, formerly known as Deering, and purchased by the City of Portland of Oliver Buckley and William Stevens, by their several deeds dated February 28th, 1852, were set apart and appropriated, under the revised ordinances of 1855, for the burial of the human dead, of the City of Portland, to be known as EVERGREEN CEMETERY. Since 1852 the city has purchased several tracts of land, (amounting in all to about three hundred and twenty acres,) adjacent to and adjoining the above-mentioned tracts. All of these several tracts and all land which may hereafter be purchased to extend the limits of said cemetery, shall be included in and subject to all the ordinances and regulations herein and hereinafter made for the government of Evergreen Cemetery.

#### **Trustees.**

SECTION 2. The general care and management of the property, expenditures, business and prudential affairs of said cemetery shall be in a board of three trustees, to be appointed in the following manner:

The mayor, in the month of January, or as soon thereafter as may be, shall appoint, annually, subject to the approval of the board of aldermen, a suitable person as trustee of Evergreen Cemetery, to hold such office for a term of three years (unless sooner removed) and until his successor is appointed and confirmed; and each annual appointment so made shall be to fill the vacancy occasioned by the expiration of a trustee's term of office. Said board shall, on or before the first of January in each year, make to the city council a full report of their doings.

SECTION 3. The mayor, two-thirds of the board of aldermen consenting, may remove for a sufficient cause, any member of the board of trustees after a full and fair investigation, in which the said trustee shall have the right to be heard in his own defence.

SECTION 4. In case of a vacancy in said board of trustees by death, resignation, disability or removal, such vacancy shall be filled by the appointment and confirmation as aforesaid, of another trustee, who shall hold office for the remainder of the term for which such member, so deceased, resigned, disabled or removed, would have held the same, and until his successor is duly appointed and confirmed.

SECTION 5. The board of trustees, in the month of January, or immediately after the regular annual appointment is made by the mayor, shall organize by choosing from their number a chairman, a secretary, and a treasurer. The offices of secretary and treasurer may be held by one person.

SECTION 6. The board of trustees, when so authorized by statute, may accept and hold any grant, donation or bequest of money or property, in trust, for and in behalf of the City of Portland, and apply the income thereof and the principal when so stated, to the improvement and embellishment of said cemetery; or for the erection, repair, preservation or renewal of any monument or other structure; or for the planting or cultivation of trees, shrubs or plants in or around any lot or lots; or for improving said grounds in any other manner or form consistent with the purposes for which said cemetery is established, and in accordance with the terms of such grant, donation or bequest.

And whenever any such grant, donation or bequest, or any deposit of money, shall be made to said trustees, by the owner of any lot or lots, in said cemetery, for the annual or perpetual care, repair, preservation or embellishment of such lot or lots, or the erections thereon, the said trustees may give to such owner or his legal representative, when so authorized by statute, an agreement or obligation in such form and upon such conditions as they or the statute may establish, binding themselves and their successors for and in behalf of the City of Portland, to preserve and keep in repair said lot or lots forever, or for such period as may be agreed upon.

And any sums of money so received, when not loaned to the city as provided in Section 27, shall be invested by them in such a manner as the laws of the State provide for investing such funds.



SECTION 7. The income of such fund or funds and the principal, when so stated, shall be expended by said board of trustees in such manner as shall, in their opinion, best promote the purposes for which said grant, donation, bequest or deposit was made.

SECTION 8. All personal property now belonging to said cemetery, and the proceeds of all sales of lots, now held, or hereafter to be acquired, by said cemetery, together with all donations, bequests, and all other incomes of whatever nature, shall be forever devoted and applied, in accordance with the provisions of this ordinance, to the preservation, improvement, embellishment, protection and enlargement of said cemetery, and to the necessary incidental expenses thereof and to no other purpose.

SECTION 9. All bills against said cemetery shall be examined and approved by at least two members of the board of trustees before payment.

SECTION 10. Each trustee shall be entitled to draw from the general fund, the sum of one hundred dollars per annum, which sum shall be in full payment for his services as trustee, in said cemetery.

#### **Officers.**

SECTION 11. The chairman shall preside at all meetings of the trustees.

SECTION 12. The secretary shall keep a correct record of all the doings of the board of trustees and attend to all necessary correspondence.

SECTION 13. The treasurer shall receive all money due and payable on account of the cemetery, not paid directly into the city treasury.

SECTION 14. He shall make out and submit to the board of trustees, at their stated monthly meeting for the approval of cemetery bills, a statement of the financial condition of the cemetery, which statement shall contain a detailed account of receipts and expenditures, made for and in behalf of the cemetery, for the preceding month, up to and including the twenty-fourth day of the month, and before the first day of the next calendar month he shall turn over to the city treasurer all the money in his hands, according to such statement. Said statement shall also contain an itemized account of the work done and charged by the

superintendent, on account of said cemetery, for the month ending and including said twenty-fourth day, as well as a complete list to date of all outstanding and unpaid bills against the cemetery.

SECTION 15. The treasurer shall, annually, during the month of December, make out a statement of all receipts and expenditures, as shown by his monthly report to the board of trustees, and submit the same to the city council, at its next stated meeting in January.

SECTION 16. It shall be the duty of the city treasurer to furnish the treasurer of the board of trustees, for the report required in Section 14, an itemized statement of the current receipts and expenditures of the city treasurer's office, for and in behalf of Evergreen Cemetery, for the month ending as aforesaid; which statement shall include, under the appropriate heads, any interest or other income, due from the city to said cemetery account, by reason of any loan or invested fund.

SECTION 17. He shall carefully examine the superintendent's time book, and make up therefrom the pay roll of all the employes of the cemetery; and, upon approval of said pay roll by the trustees, he shall pay the same.

SECTION 18. He shall give a bond in the sum of two thousand dollars, to be approved by the mayor and board of aldermen, for the faithful performance of his duties. He shall receive the sum of two hundred dollars per annum for his services as treasurer, in addition to the amount mentioned in Section 10.

SECTION 19. The trustees shall designate not less than two of their number to act as a committee for purchasing all necessary supplies for the cemetery.

### **Superintendent.**

SECTION 20. The board of trustees, at their organization or as soon thereafter as may be, shall appoint some suitable person as superintendent of the cemetery, who, under the direction of the trustees, shall have entire charge of the cemetery grounds; he shall keep the avenues, paths and lots in a neat and satisfactory condition, and, upon approval of the trustees, shall engage and discharge workmen, and order and arrange their respective duties.

SECTION 21. It shall be his duty at all times, in connection with the trustees, to see that the provisions of this ordinance are faithfully and impartially enforced.

SECTION 22. He shall see that all rules and regulations of the cemetery are observed by persons employed in the cemetery, either by himself or by owners of lots; and that all regulations in regard to interments and the construction of tombs, monuments, foundations, care and improvements of lots, be complied with, and cause all contracts made with owners of lots to be fulfilled.

SECTION 23. He shall perform the duties of actuary by keeping in books or cards provided for that purpose, regular and accurate records of all interments, with proper indices of the same, as required by Section 60, for immediate reference, by lot owners and others, at any time. He shall, *ex officio*, be an undertaker and have all the powers of the same.

The superintendent shall hold his office at the pleasure of the board of trustees. Subject to the provisions of this ordinance, the trustees may require the superintendent to perform such other duties as they deem advisable.

### **Cemetery Funds.**

SECTION 24. Twenty-five per cent. of the amounts received from the sale of lots in Evergreen Cemetery, exclusive of grading, and all sums received from transfers of lots, together with all donations made by the holders of lots, or other persons, shall constitute a permanent fund to be called "Evergreen Fund," the income of which shall be used for improving and ornamenting the grounds, avenues, paths and lots, owned by the city, or in caring for neglected lots, whose owners are unknown or cannot be ascertained, and keeping the same in good order when so directed by the trustees.

SECTION 25. All sums received, from bonds given by the city or board of trustees, for the perpetual care of lots, tombs and other structures upon any lots, shall be known as the "Perpetual Care Fund," and the income from the same shall be exclusively expended by the trustees in maintaining, according to the terms of the various bonds given therefor, a perpetual care of said lots, tombs, and other structures.

**SECTION 26.** The city treasurer shall open a cemetery account known as the "General Fund," in a book kept for that purpose, in which shall be entered all moneys received for and on account of the cemetery, not including the above-mentioned funds, and all moneys so received shall be and are hereby constituted a General Fund, to be used for the purpose of paying current expenses, as well as improving and ornamenting said cemetery.

**SECTION 27.** The city treasurer shall have the care and custody of all cemetery funds, and any portion of the same, not needed for immediate use in accordance with the provisions of this ordinance, may be loaned to the city, on interest. And the city treasurer shall credit to the account of the cemetery, under the appropriate fund, any interest accruing on the first day of January and of July, annually, at the rate of four per cent. per annum, reckoned on the average of the amounts standing to the credit of said uninvested funds, on the last day of each preceding six months; and the amounts so credited shall be charged to the appropriation for the payment of interest; or said funds, if not loaned to the city, shall be invested by the trustees in such a manner as the laws of the State provide for investing such funds.

He shall keep a record in a book, or on cards properly ruled, according to the plan of said cemetery, giving the number, section, name of purchaser, price and date of every lot sold, transferred or exchanged.

**SECTION 28.** The city treasurer shall, annually, make a report to the city council, giving a detailed statement of all receipts from, and expenditures and investments of the above-mentioned funds received or made by him for the fiscal year ending December thirty-first.

### **Purchase and Sale of Lots.**

**SECTION 29.** The trustees are authorized to determine the price and sale of lots in the cemetery, fixing such price as in their judgment the location, surroundings and condition of the same seem to warrant. And the city treasurer, upon receipt of a certificate signed by the trustees, giving the name or names of the purchasers, the section, number and price of the lot or lots, shall make out and deliver to such person or persons (on payment of the specified price) a deed in the following form:

BE IT KNOWN, that in consideration of the sum of ——— dollars paid to the City of Portland by ———, the said City of Portland does hereby sell and convey unto the said ———, heirs and assigns, ——— lot — of land in

EVERGREEN CEMETERY,

in the City of Portland, and County of Cumberland, situated on ——— Avenue, in Section ———.

The said granted lot — contain — — superficial square feet of land and — designated and numbered — on the plan of said cemetery in the office of the treasurer of said City of Portland.

TO HAVE AND TO HOLD the same unto the said grantee, his heirs and assigns forever.

ON CONDITION that the same shall be used and improved only as and for a burial lot for the human dead ; that it shall not be sold or transferred without leave had and obtained of the trustees of the cemetery, representing said city ; and that the owners or possessors thereof, shall always be subject to such ordinances, regulations, orders and liabilities as are or shall be adopted or made by the constituted authority for the orderly and convenient use and improvement of said Evergreen Cemetery.

And the said City of Portland covenants to and with the said ———, heirs and assigns, that it is lawfully seized in fee simple, of the aforesaid granted premises, and of the ways leading to the same from the highway ; that the granted premises are free from all incumbrances, except as to the aforesaid conditions and limitations ; that it has good right to sell and convey the same to the said ——— in the manner and for the purposes aforesaid, and will, subject to the conditions and limitations, above mentioned, warrant and defend the same unto the ———, heirs and assigns forever.

IN TESTIMONY WHEREOF, I, ———, treasurer of the City of Portland, have hereunto subscribed my name and affixed the seal of said city, this ——— day of ———, A. D., 19—.

Signed, sealed and delivered  
in presence of

——— Treasurer of the City of Portland.

STATE OF MAINE.

CUMBERLAND, ss.

PORTLAND, ———, 19—.

Then personally appeared the aforementioned ———, treasurer of the City of Portland, and acknowledged said instrument to be his free act and deed for and in behalf of said City of Portland.

Before me,

——— Justice of the Peace.

PORTLAND, MAINE, ———, 19—.

I hereby certify that the foregoing deed has been recorded in the office of the superintendent of said cemetery and in the office of the city treasurer of said Portland, in books provided for that purpose, being book No. ——— and page No. ——— in the office of said superintendent, and book No. ——— and page No. ——— in the office of said treasurer.

——— Secretary of the Board of Trustees.

SECTION 30. Any person holding a certificate granting the right of burial in any lot in said cemetery may exchange the same for a deed.

SECTION 31. The trustees are authorized to sell and convey lots to citizens of Portland and to non-resident taxpayers, but to no other persons.

SECTION 32. The price of every lot hereafter sold must include a sum for the perpetual care of said lot. The amount for such perpetual care is subject to the discretion of the trustees, and shall be such as in their judgment will hereafter produce a sufficient income to properly provide for the perpetual care and protection to said lot by the city.

SECTION 33. The trustees are hereby authorized to purchase outright or by exchange for other lots, on behalf of the city, any unoccupied lot or lots, at such price or prices as may be agreed upon by the owner or owners and the trustees.

#### **Single Graves.**

SECTION 34. The trustees are hereby authorized to set apart any unoccupied tract or tracts of land in the cemetery, for the purpose of selling the right of burial, in single graves, to persons who do not desire to purchase regular lots. And said trustees are hereby empowered to adopt and regulate the price for such graves as in their judgment is just and proper, but such price shall include cost of opening the grave. It shall be conditioned in the sale of every such grave that if any person purchasing such a grave shall thereafter purchase any lot or lots in the cemetery, the body buried in such grave will be removed therefrom to the lot or lots purchased, when desired, and the price paid for the grave, less the charge for two interments, shall be credited on the lot or lots so purchased. After such removal the space so vacated and the right to occupy the same shall revert to the city.

Single graves may be purchased in the section or sections set apart for that purpose, by the trustees, at such a price as they may determine, which price shall include opening the graves.

SECTION 35. The size of a single grave shall not be less than 3 x 10 feet, for adults or children over five years of age, if facing an avenue; or 3 x 9 feet, if facing a path; for children under five years of age, the size shall be at least 2½ x 7 feet.

SECTION 36. The price for a single grave shall include perpetual care according to (a) Classification One. At the discretion of the trustees said price may also include the furnishing of a suitable headstone and care of the same, according to Classifications Two or Three.

**Grading of Lots.**

SECTION 37. The grade of all lots hereafter sold or exchanged shall be at a uniform grade of eight inches, unless otherwise determined by the trustees. All lots shall be graded by the city under the direction of the trustees and at such a price as may be agreed upon.

SECTION 38. The grading of any lot in the cemetery or any changing of a grade once established by the city, except by an employe of the cemetery, acting under the direction of the superintendent, is prohibited; and any lot owner, or his representative, who violates this section shall be liable to a fine of not less than twenty-five dollars for each offence, to be recovered by complaint or an action of debt, in the name of the trustees, for the use of the cemetery.

**Annual and Perpetual Care of Lots.**

SECTION 39. The trustees are authorized to agree upon such a price for perpetual, annual or special care of any lot or lots by the city, as in their judgment would be just and proper, between the city and the owners of such lots. They may refuse to grant perpetual care upon any lot until it is put in a condition satisfactory to them.

SECTION 40. There shall be the following classifications for the perpetual care, by the city, of lots, tombs, vaults, or other structures upon lots:

One. (a) Shall include keeping the sward or turf even and in good condition, the grass properly cut, and the trees and shrubbery trimmed. It may also include, if agreed upon, (b) the necessary watering of the lot, (c) the planting and care of flowers and shrubs, or (d) top dressing the land when necessary.

Two. May embrace any or all the divisions enumerated in Classification One, as well as the proper care of all granite, stone, marble, bronze or other structures on the lot at the time the care is assumed, or any future erections that may be expressly specified, but not the replacing of the same.

Three. Assuming the same care as in Classification Two, and in addition, replacing when necessary such granite, stone, marble, bronze or other structures.

Four. Any or all divisions of care enumerated in Classification One and the care of any tombs, vaults or mausoleums, situated upon or within any lot, which care shall include pointing the joints, keeping the walls in place and the whole structure in a suitable and sanitary condition.

Five. The care of tombs, vaults or mausoleums, as in Classification Four, and in addition, replacing the same when necessary.

SECTION 41. The trustees or superintendent may contract with lot owners or their representatives, for the care of lots by the year, on such terms as may be agreed upon, to be known as Annual Care. It may embrace any or all of the provisions designated in Classification One.

Special or extra care may be contracted for in writing by any lot holder, in addition to the perpetual or annual care mentioned in this and the preceding section.

SECTION 42. If any lot or structure or growth thereon shall, by reason of the neglect or absence of the owner, become unsightly or inconvenient, the trustees shall have the right, at their discretion, after due notice to said owner or the designated representative mentioned in Section 50, to put said lot or structure in proper condition and repair, and make a reasonable charge for the same; or any structure or growth thereon or any part of it may be removed, if deemed advisable, and the expense of the same shall be charged to the owner or owners of said lot or lots. And the trustees shall not consent to the transfer of such lot or lots until the expense for such repairs has been paid.

SECTION 43. The city shall give perpetual care, according to division (a), Classification One, to the soldiers' and firemen's lots.

SECTION 44. Upon the receipt of a certificate from the trustees setting forth the section, number and lot, owner's name and residence, together with the class of care and the price for the same, the city treasurer shall issue to the party or parties therein named, a bond for perpetual care of lots, upon the payment of the price agreed upon in such certificate.

SECTION 45. Upon receipt of a properly executed deed to the City of Portland by any lot holder or holders in Evergreen Cemetery, conveying in trust any lot or lots in said cemetery as a place of interment for the grantor and such persons as the grantor may designate to be buried therein, accompanied by a certificate from the trustees, for the time being, of said cemetery, giving the section, number and lots, the name and residence of the grantor, together with the class of perpetual care and the price for the same, the city treasurer and said trustees, for the time being, for and in behalf of the City of Portland, may accept the conveyance of such lot or lots, for the uses and upon the trusts which may be set forth in said conveyance, and may bind the city to keep and perform the agreements, uses and trusts, as are contained in



the deed of conveyance of such lot or lots, in accordance with the laws of this State.

SECTION 46. No person, except a lot owner, his legal representative or an employe of the cemetery acting under the direction of the superintendent or trustees, shall enter Evergreen Cemetery for the purpose of caring for lots, unless by special permission or vote of the trustees.

SECTION 47. No trustee, superintendent or employe of this cemetery shall be allowed to be personally interested in or receive compensation for the care of any lot, but any and all receipts for such care, unless otherwise provided, shall go into the general fund provided in Section 26.

SECTION 48. Any person violating the foregoing section shall be liable to a fine of not less than ten dollars for each offence, to be recovered as provided in Section 38.

SECTION 49. All tombs or vaults hereafter built must be under perpetual care.

#### **Lot Owners—Their Privileges and Restrictions.**

SECTION 50. A record shall be kept, at the office of the superintendent, of the names of all persons to whom all notices, in matters pertaining to lots, shall be sent. In the case of a lot holder the notice shall be sent to him or his designated representative. In the case of heirs, they shall be requested by the secretary of the board of trustees, to designate to which of their number, notices shall be sent. Upon failure to do so, within thirty days, the board of trustees shall select the heir or person to whom notices shall be given while such failure continues, and due notice thereof shall be mailed to all parties interested, when such selection is made.

SECTION 51. Each lot shall be bounded or designated by posts or markers at each corner, set level with the ground, the same to be furnished by the city on or before the sale of the lot. The number of the lot shall be cast or cut in a post or marker set for that purpose.

SECTION 52. If any tree, shrub, hedge or plant situated on any lot, by means of its roots, branches or otherwise becomes unsightly or obnoxious to adjacent lot owners, or detrimental or inconvenient to avenues or paths, it shall be the duty of the trustees, after suitable notice to the owner or owners, to enter upon such lot and remove the same in whole or in part, at their discretion.

**SECTION 53.** The owner of any lot shall have a right to cultivate trees, shrubs and plants on the same, subject to the regulations of the cemetery, but they shall not be cultivated without first obtaining permission from the trustees.

### **Monuments.**

**SECTION 54.** The owner of any lot shall have the right to erect any proper stones or a monument thereon.

Only one monument shall be allowed on a lot and this must be located in the center, unless special permission is given by the trustees for placing it otherwise. No monument will be allowed on any lot platted for less than five burials unless by special vote of the trustees.

**SECTION 55.** Tombs, vaults or mausoleums can be constructed only in such places and upon such lots and of such a design as shall be approved by the trustees. Complete plans and specifications of the same must be furnished when application for permission to build is made. No bodies shall be placed therein except in hermetically sealed, single apartments, in a manner satisfactory to the trustees.

**SECTION 56.** No monument or headstone, and no portion of any vault, tomb, or mausoleum above ground, shall be constructed of any other material than cut marble or stone or real bronze. No artificial material will be allowed.

### **Foundations.**

**SECTION 57.** As a guarantee of good work, for the general welfare of the cemetery, and as a protection to lot holders, the city reserves the right to excavate for and build all foundations for monuments, headstones, etc. The trustees may, however, if deemed advisable, authorize, under their supervision, the construction of such foundations by other parties than the city.

**SECTION 58.** No stone, tablet, tomb, vault or other superstructures shall be erected in Evergreen Cemetery until a suitable foundation is laid.

All foundations for monuments, shall be not less than five feet deep. For all other structures the depth of the foundation shall be at the discretion of the trustees.

### **Undertakers.**

**SECTION 59.** No person, except a licensed undertaker of the City of Portland or the superintendent acting as such, shall remove to or

deposit for burial in Evergreen Cemetery, any body of a deceased person; and any person violating this section shall be liable to a fine of not less than fifty dollars for each offence, to be recovered as in Section 38.

SECTION 60. It shall be the duty of every undertaker, who shall hereafter remove to Evergreen Cemetery any body of a deceased person for burial or for deposit in the receiving tomb, to first notify the superintendent of burials, and also the board of trustees upon a blank for that purpose, furnished by the superintendent of the cemetery, giving the name, age, late residence and nature of the disease of which such person died; and if buried, the section, number and name of the lot owner upon whose lot such burial is made; and if the body is placed in the receiving tomb, to await burial, it shall be so stated upon such return.

In addition to the above, the date of such deposit and when such body will be removed for burial, the number and lot-holder's name to which it is to be removed, shall be given. And the trustees shall cause a record of every such notice and return to be kept at the superintendent's office, for the use and information of the cemetery.

SECTION 61. The license of any undertaker who shall violate the provision of the preceding section upon a complaint by the trustees, shall be revoked by the mayor and board of aldermen.

SECTION 62. No body of a deceased person shall hereafter be removed to Evergreen Cemetery, either for burial or deposit in the receiving tomb, except between the hours of seven o'clock A. M. and six o'clock P. M. from April 1st to November 1st, and from eight o'clock A. M. to five o'clock P. M., the remainder of the year, without permission of the trustees.

### **Burials or Interments.**

SECTION 63. No burial shall be permitted in any lot in the cemetery until the laws regarding burials in force in the City of Portland have been complied with, and all burial fees paid.

SECTION 64. No body shall be buried in any lot in the cemetery for hire nor except on the written permission of the lot owner or his designated representative, filed in the office of the superintendent, twelve hours before such interment. The trustees, at their discretion, may permit such interment when unable to get the permission above mentioned.

**SECTION 65.** Burials are prohibited upon any lot the title to which is in the City of Portland. But the trustees, by written consent, may allow burials to be made, for a stated period, on such lots when the person or persons interested shall contract to purchase the lot or lots so buried upon. And it shall be stipulated in such contract that if such person or persons shall fail to purchase within the time specified, the trustees may, after thirty days from the date of a notice to that effect to the person or persons interested, cause such body or bodies to be removed to a single grave section, at the expense of the person or persons for whom such burials were made.

### **Receiving Tomb.**

**SECTION 66.** The remains of a person dying of cholera, scarlet fever, diphtheria, small pox, typhus or yellow fever, or any other recognized contagious disease, shall not be allowed in the public vault. Nor shall such remains be deposited in any private vault, except upon a sworn statement, properly executed, from the local board of health where such person died, specifying that the rules of such board and the laws of this State, regarding such cases, have been complied with. And the license for any undertaker who shall wilfully violate this section upon complaint of the trustees, shall be revoked by the mayor and board of aldermen.

**SECTION 67.** Should the remains of any person dying of any disease mentioned in the preceding section, be buried in any lot or section of Evergreen Cemetery, such remains shall not be removed within two years from the date of such interment.

**SECTION 68.** No body of a deceased person shall be deposited in the receiving tomb, except (1) that of a lot owner in the cemetery, (2) that of a person entitled, by reason of the consent of a lot owner, to be buried on such owner's lot, (3) that for which the right of burial has been procured, as in Section 65, (4) that for which the right of burial has been secured by depositing the price of a lot or lots with the city treasurer.

**SECTION 69.** Persons not owning lots may, during the winter months, on payment of such a sum as may be determined upon by the trustees, have a body placed in the receiving tomb for a term not exceeding three months.

All bodies deposited in the receiving tomb shall be removed therefrom on or before the fifteenth day of May, annually, unless allowed to remain longer by special permission of the trustees.

**Rules for Visitors.**

SECTION 70. The grounds of the cemetery will be open from sunrise to sunset every day of the week, and any orderly person may visit the same without special permission. Between the hours of sunset and sunrise no visitors are allowed on the grounds.

SECTION 71. Any dog habitually running at large in the cemetery, whether licensed or not, shall be destroyed by the superintendent or by his order, after personal or written notice to the owner or keeper of such dog has been given. Any owner, keeper, head of a family, or keeper of a house, store, shop, office or other place where such dog is kept or harbored, shall be liable for all damage such a dog may do, the same to be recovered as in Section 38.

SECTION 72. Any person who shall be found within the limits of the cemetery making unseemly noise, discharging firearms, driving at a rapid rate through the avenues, throwing stones or other missiles, or otherwise conducting himself in a manner unsuitable to the purposes to which the grounds are devoted or in violation of any ordinance or regulation of the cemetery, shall be liable to a fine of not less than ten dollars.

**In General.**

SECTION 73. The trustees are hereby empowered to adopt such rules and regulations as may be necessary for the government of said cemetery, provided the same are not inconsistent with the ordinances of the city and the laws of the State.

SECTION 74. Whoever violates any provision of this ordinance, unless otherwise provided by this ordinance or the laws of this State, shall be punished, upon conviction, by a fine not exceeding one hundred dollars, the same to be recovered as provided in Section 38.

SECTION 75. All former ordinances concerning Evergreen Cemetery are hereby repealed.

## **CHAPTER 14.**

# **CHILDREN (ABUSED AND NEGLECTED).**

(See titles, "Schools," "Industrial School," "Paupers.")

### **Statutes.**

(R. S., Chapter 59.)

### **Municipal Officers May Give Notice of Hearings on Cases of Abused Children.**

SECTION 1. When complaint in writing, signed by two or more citizens of any town or city alleging that any child therein, is wilfully neglected or cruelly treated by its parents, or by the wilful fault of such parents is not provided with suitable food, clothing or privileges of education, or is kept at a house of ill-fame, or that such child is an orphan without means of support or kindred of sufficient ability, who will furnish such support, is made to the municipal officers of such town or city, such officers shall give notice of a time and place of hearing by serving such notice, with a copy of such petition upon such parents at least two days before such hearing, or by publishing a copy of such petition and notice in some newspaper in the county where such child resides, at least seven days before such hearing. Said officers shall, at the time and place mentioned in said notice, give a hearing to the parties and their witnesses, and if they find that the allegations in the petition are true, and that it is just and expedient to make further provision for the care, education and support of such child, they shall make a record thereof, signed by them or a majority of them, which shall be recorded by the clerk of said city or town in a suitable book. (Section 25.)

### **Municipal Officers to Make Complaint to Court.**

SECTION 2. Upon making such record such municipal officers or some person appointed by them for that purpose, shall make complaint under oath to a judge of a court or to any trial justice, which complaint shall contain in substance, the allegations set forth in said petition, and a prayer that such provision may be made for the care, custody, support and education of the child named in said complaint as justice

requires, and thereupon the magistrate, before whom such complaint is made, shall issue his warrant and cause such child to be brought before him, and if upon notice and hearing it appears that the allegations of the complaint are true, and that justice requires that such child shall be supported and educated away from its parents, he shall order it to such place or institution as is provided therefor by such town or city, or to such charitable institution or private person, as he deems suitable, provided that such institution or person consents to receive, support and educate it; but such order shall not extend beyond the time when such child arrives at the age of twenty-one years, if a male, or at the age of eighteen years, if a female. An order to the same effect may be made by the Probate Court in any county where either of the parents of the child resides, upon petition of the superintendent of any such public or charitable institution asking for the care, custody and control of such child, if written consent be given as provided in Section 33 of Chapter 67 of the Revised Statutes. Such orders and decrees shall have the same effect to divest the parents of all legal rights in respect to such child as specified in Section 35 of said Chapter 67, and said institution shall have full control over said child thereafter for said time and have authority alone to give the consent required in said Section 33. (Ib., Section 26.)

#### **Magistrate May Place Child under Control of Private Person.**

SECTION 3. Whenever the magistrate deems it suitable and conducive to the public welfare, that such child be placed under the control of a private person, he shall first take a bond from such person, running to the town where the child resides, in such sum and with such sureties as he approves, conditioned that such person shall humanely treat and properly support, clothe and educate the child, and in case of the non-performance of said bond, a suit may be commenced thereon, and the sum recovered upon such bond shall be paid into the treasury of the town to which the bond is given. Upon application to any magistrate, he shall examine into the condition and welfare of the children who have been provided for under this chapter, and may at any time make such further order in relation to their care, custody, support and education as justice demands. (Ib., Section 27.)

#### **Municipal Officers to Take Custody in Certain Cases.**

SECTION 4. Whenever the municipal officers of a town or city have reason to believe that any child will be removed beyond the limits of the State before a hearing can be had, as provided in this chapter, they

may, at any time after filing the petition, take the child into their custody and keep it until the hearing before the magistrate, as hereinbefore provided. (Ib., Section 28.)

### **Parents May Apply to Have Custody of Child Restored.**

SECTION 5. Whenever a child is in the custody of any public or charitable institution, the parents, or either of them, may make application in writing to any justice of the Supreme Judicial Court to have its custody restored to them. Such notice of the application and the time and place of the hearing thereon as the court orders shall be given to such institution and to the municipal officers of the town where the proceedings herein provided were commenced, and if upon such hearing it appears that the applicant is of sufficient ability and inclination suitably to provide for its support and education, and that justice requires that its custody be restored to such applicant, the judge shall so order, and the custody and control of said child shall thereupon be given to such applicant until the further order of the court. (Ib., Section 29.)

### **Expense of Support.**

SECTION 6. Any town incurring expenses under the five preceding sections through the fault of parents who are able properly to support and educate their children, but wrongfully neglect and refuse to do so, may recover of them in an action of debt, the amount so expended. (Ib., Section 30.)

### **Towns May Provide for Support.**

SECTION 7. Any town may make proper provision for the support of children mentioned in the six preceding sections, and such support shall not make such children or their parents, paupers. (Ib., Section 31.)

### **Penalty for Abuse of Children.**

SECTION 8. Any parent, guardian, or other person having the care and custody of any child, who cruelly treats such child by abuse, neglect, overwork or extreme punishment, shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding one year. (P. L. of 1889, Chapter 160.)



## **CHAPTER 15.**

# **CITY AUDITOR.**

### **ORDINANCES.**

#### **City Auditor to Be Elected Annually.**

SECTION 1. There shall be elected annually, or at the time that may hereafter be fixed for the election of other subordinate officers, one person, possessing a practical knowledge of bookkeeping, to be styled the city auditor of accounts, who shall continue in office during the year ensuing his election, and until another person has been elected and qualified in his place.

#### **To Give Bond.**

SECTION 2. Said auditor of accounts shall be sworn to the faithful performance of the duties of his office, and give bond, with surety or sureties, to be approved by the mayor and aldermen, in the penal sum of three thousand dollars, for the faithful performance of said duties. the true accounting for and payment over of all city moneys which shall come into his hands, and the delivery over to his successor, or to the city clerk, of all the books, accounts, papers, and other documents and property which shall belong to said office.

#### **A Successor to Be Appointed in Case of Death, Etc.**

SECTION 3. In case said office shall become vacant by death, resignation or otherwise, a successor shall forthwith, and in like manner, be appointed, who shall continue in office until the appointment and qualification of a successor.

#### **Expenditures to Be Vouched and Drawn for.**

SECTION 4. No money shall be paid out of the city treasury unless the expenditures or the terms of the contract shall be vouched by a majority of the committee of the board, under whose authority it has been authorized and made; nor unless the same shall be examined by the auditor, approved by the committee of accounts, and drawn for by the mayor.

**Payments in Advance—How Made.**

SECTION 5. In all cases where it is necessary for money to be paid in advance, for contracts made or for works begun, but not completed, the mayor may, upon being satisfied of such necessity, draw upon the city treasurer for the amount thus necessary to be advanced, which draft shall be paid by the city treasurer, provided the same be countersigned by the auditor; and it shall be the duty of the auditor to countersign all such drafts, not exceeding five hundred dollars, and to charge the same to the proper person and account; but the said auditor shall not countersign any such draft for any sum exceeding five hundred dollars, without the direction of the committee on accounts.

**Committee on Accounts to Direct Auditor, and Examine Bills.**

SECTION 6. It shall be the duty of the committee of accounts to direct the auditor as to the manner in which the books, records and papers belonging to the department shall be kept, and the mode in which all bills and accounts against the city shall be certified or vouched, and as often as once in every month to examine, and if they see fit, to pass all bills and accounts against the city, which shall be certified by the auditor.

**Auditor to Keep Books.**

SECTION 7. It shall be the duty of the auditor to keep, in a neat, methodical style and manner, a complete set of books, under the direction of the committee of accounts, wherein shall be stated, among other things, the appropriation for each distinct object of expenditure, to the end that whenever the appropriations for the specific objects shall have been expended, he shall immediately communicate the same to the city council, that they may be apprised of the fact, and either make a further appropriation, or withhold, as they may deem expedient.

**Auditor to Examine all Bills against the City, Etc.**

SECTION 8. The auditor shall receive all bills and accounts from persons having demands against the city, examine them in detail, cast up the same, and have them filed and entered in books, in such manner and form as the committee of accounts shall order and direct. When the auditor shall have any doubt concerning the correctness of any such bill or account presented against the city, he shall not enter the same

in a book until he shall have exhibited the same, with his objections, to the committee of accounts, at their next meeting, for their consideration and final decision. And it shall also be the duty of the auditor to render any other services, from time to time, as the city council or the committee of accounts shall direct.

### **Auditor to Make Annual Estimates and Statement of Expenditures.**

SECTION 9. It shall be the duty of the auditor of accounts to lay before the city council annually, at such time as the council may direct, an estimate of the amount of money necessary to be raised for the ensuing year, under the respective heads of appropriation; and shall also annually, at such times as the council may direct, make and lay before said council a statement of all the receipts and expenditures of the past financial year, giving in detail the amount of appropriation and expenditure for each specific object, the receipt from each source of income, the whole to be arranged as far as practicable to conform to the accounts of the city treasurer; and said statement shall be accompanied by a schedule of all the property belonging to the city, and an exhibit of the debts due from the city.

NOTE. The City Charter provides that the city council "shall, as often as once a year, cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property." (City Charter, Section 7.)

### **Auditor to Open an Account with Treasurer.**

SECTION 10. The auditor shall open an account with the treasurer of the city, charging said treasurer with the whole amount of taxes placed in his hands for collection, also the whole amount in detail of all bonds, notes, mortgages, leases, rents, interest and other sums receivable, in order that the value and description of all personal property belonging to the city may be at any time known at the office of the auditor.

### **To Cause New Ordinances to Be Printed in Report.**

SECTION 11. The auditor shall cause to be published in the "Auditor's Annual Report," all ordinances which have been enacted during the preceding year.

(Authority to publish annual report is given under Section 7 of the City Charter.)

**Sinking Fund — Real Estate Fund.**

SECTION 12. The city treasurer and city auditor shall place to the credit of a fund to be called the "Real Estate Fund" all moneys received from the sale of real estate belonging to the City of Portland, situated on the northerly side of Portland street, and known as the "City Farm Property." The money so received and credited shall be used for the building of the new almshouse and for no other purpose.

**Contracts to Be Filed with City Auditor.**

SECTION 13. The city auditor shall receive, file and have in his custody all contracts in writing to which the city is a party. He shall not permit any contract to be taken from his office except upon written order signed by the mayor or chairman of any committee under whose jurisdiction such contract comes, and shall in every case first obtain a receipt from the person to whom the contract is delivered.

**All Officers to File with City Auditor Statements of Amount on Fees Received.**

SECTION 14. Every officer required by law to pay to the city treasurer fees or money received by him, shall, at the close of each month, before paying the same to the city treasurer, file with the city auditor a statement of the amounts; such statement shall set forth when and for what said fees or moneys were received. And the city auditor shall thereupon issue to the city treasurer a statement of same and give to each officer a proper acknowledgment therefor.

**City Auditor to Audit Accounts of All City Officers.**

SECTION 15. The city auditor shall, at the close of the financial year, and as much oftener as may be required by the mayor, or by the committee on accounts, audit the accounts of all city officers having custody or collection of money for the city; and, for this purpose, he shall have access to all books and vouchers in the possession of such officers. He shall make a report to the city council, stating in writing the result of such examination.

**In Sale of Personal Property of City, Statement to Be Filed with City Auditor — Auditor to Send Bill.**

SECTION 16. Whenever in the opinion of any officer being the head of any department, any personal property of the city under the control of his department is either unnecessary or unfit for economical use in

such department, or which it would be for the best interest of the city to sell, said property may be sold, by and with the consent of the committee of that department, or if no committee exists, by and with the consent of the mayor, in the following manner, viz.:

Such officer, before selling such property, shall file with the city auditor a written statement containing a description of the property, the estimated value thereof, and the name of the department to which said property belongs. Such officer may sell said property at private or public sale, provided the written consent of the mayor is first obtained.

After such sale, the officer making the sale shall file with the city auditor a statement of the amount to be received from such sale, and the name of the purchaser, and the city auditor shall thereupon cause a bill to be sent to such purchaser, and shall notify the city treasurer of the name of the purchaser and the amount due from him.

said office with the same effect as if done by the clerk; the appointment may be made in writing, as follows:

"I hereby appoint \_\_\_\_\_ to perform the duties of town clerk as set forth in Section 17, of Chapter 3, of the Revised Statutes, in the town of \_\_\_\_\_ during my absence from the clerk's office.  
 \_\_\_\_\_ Clerk of the town of \_\_\_\_\_."

(R. S., Chapter 3, Section 17.) 70 Me. 564.

### **Municipal Officers May Appoint Deputy Clerk in Certain Cases—Tenure of Office—Form of Appointment.**

SECTION 9. In case of the clerk's absence, death, resignation or removal from office, without having made such appointment, the municipal officers may appoint a citizen to fill said office, who shall perform all the duties of the clerk during his absence, or in case of his death, resignation or removal from office, until a clerk is elected. The appointment may be made in writing, as follows:

"I (or we) hereby appoint \_\_\_\_\_ to perform the duties of town clerk in the town of \_\_\_\_\_ during the clerk's absence from his office, or until a clerk is elected.

\_\_\_\_\_, Clerk, or Municipal Officers of the town of \_\_\_\_\_."

(R. S., Chapter 3, Section 17.)

### **Deputy Clerk to Be Sworn—Town Clerk May Appoint a Woman as Deputy.**

SECTION 10. Said deputy, or person appointed by the municipal officers, shall be sworn faithfully to perform the duties of his office before he enters thereon.

The clerk may appoint a woman, otherwise qualified by the constitution, who, in his absence, may so far act as deputy clerk as to receive and record chattel mortgages and other papers, and make certified copies of the record in the clerk's office. (R. S., Chapter 3, Section 17.)

### **Officers—How Summoned to Take Oath.**

SECTION 11. The town clerk, or any two selectmen, shall forthwith make a list of the names of all persons chosen into office, of whom an oath is required, and deliver it to a constable with a warrant to him directed; and he shall, within three days thereafter, summon each person therein named to appear before the town clerk, within seven days from the time of notice, to take such oath of office; and at the end of ten days after receiving his warrant, the constable shall return it or

forfeit six dollars to the town, and the town shall allow him a reasonable compensation for his services. (R. S., Chapter 3, Section 22.)

**Town or Parish Officer — How Sworn — Certificates to Be Given — Mode of Making Record — Clerk May Record His Own Election — Record to Be Evidence — Penalty for Neglect — Fee for Recording Oath.**

SECTION 12. Any town or parish officer may be sworn by the \* \* \* town or parish clerk, or by any person authorized by law, who shall give to the officer sworn, except when sworn in presence of such clerk, a certificate of the oath administered, which he shall return to such clerk to be filed. Highway surveyors may be sworn by either of the assessors, who shall give a certificate thereof, as is required in such case of a magistrate. In either case, the clerk shall record the name of the officer and of his office, by whom sworn, and the time of taking the oath and returning the certificate. Any town, school district, parish, or corporation clerk elected to any office and sworn, may record his own election, the fact that he was sworn, and when and by whom. The record herein required shall be sufficient evidence that such officer was sworn. If any officer fails to return such certificate, or any clerk to record such oath within ten days he forfeits five dollars. Town clerks shall be paid by the town five cents for each oath recorded by them. (R. S., Chapter 3, Section 24.) 79 Me. 472, 84 Me. 376.

**Clerks of Towns to Mail Returns to Secretary of State.**

SECTION 13. The clerk of each town, within twenty-four hours after the close of the polls, shall deposit in some post office the returns of the votes cast at such special election, postpaid, directed to the secretary of state, to be transmitted by mail. The governor and council shall meet seven days after such election and open and canvass such returns, and declare the result. They shall receive certified copies of the record of any town if the return from such town is lost, or is not received by the secretary of state. The governor shall immediately issue a certificate of election to the person thus declared to have received a plurality of votes. (R. S., Chapter 4, Section 34.)

**Clerk to Transmit Returns of Votes to Secretary of State.**

SECTION 14. The clerk of each town shall cause to be delivered at the office of the secretary of state, the returns of votes given in his town, for governor, senators, representatives to the Legislature, repre-

sentatives to Congress, electors of president and vice president of the United States, and for county officers, within thirty days next succeeding any meeting for their election, or shall deposit them, postpaid, in some post office, directed to the secretary of state, within fourteen days after such meeting, to be transmitted by mail; and shall also forward to such office, as soon as practicable, a statement attested by him of the number of votes for said several officers, given at such election in his town, which shall be opened and filed by the secretary, and kept for public examination. (R. S., Chapter 4, Section 35.)

**Notice of Intention of Marriage—How to Be Recorded—  
Book of Record to Be Labelled and Kept Open for  
Inspection.**

SECTION 15. Residents of the State intending to be joined in marriage, shall cause notice of their intentions to be recorded in the office of the clerk of the town in which each resides, at least five days before a certificate of such intentions is granted; and if one only of the parties resides in the State, he shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such party resides, at least five days before such certificate is granted; and the book in which such record is made shall be labelled on the outside of its cover, "Record of intentions of marriage," and be kept open to public inspection in the office of the clerk, and if there is no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

NOTE. When marriage is proved to have been solemnized by a settled ordained minister of the gospel, the legal presumption is that it was done in accordance with law. *Pratt vs. Pierce*, 36 Me. 448; see also, *Bowdoinham vs. Phippsburg*, 63 Me. 497.

**Clerk to Give Certificate—Certificate Not to Be Issued to  
Minors without Consent of Parents or Guardians—  
Or to Paupers—Penalty.**

SECTION 16. The clerk shall deliver to the parties a certificate specifying the time when such intentions were entered with him; and it shall be delivered to the minister or magistrate before he begins to solemnize the marriage; but no such certificate shall be issued to a male under twenty-one, or to a female under eighteen years of age, without the written consent of their parents or guardians first presented, if they have any living in this State; nor to a town pauper when



the overseers of such town deposit a list of their paupers with the clerk; and for an intentional violation of the foregoing prohibitions, or for falsely stating the residence of either party named in such certificate, such clerk forfeits twenty dollars. (R. S., Chapter 59, Section 5.)

**NOTE.** Marriage is a social relation. It is a civil contract, in one point of view, and only those who can legally enter into a civil contract, can legally marry. *Adams vs. Palmer*, 51 Me. 480. The law on this subject is regulated by the statutes of the place where the parties had their domicile.

### **Proceedings Where Marriage Is Forbidden.**

**SECTION 17.** Any person believing that parties are about to contract marriage, when either of them cannot lawfully do so, may file a caution and the reasons therefor, in the office of the clerk where notice of their intention should be filed. Then if either party applies to enter such notice, the clerk shall withhold the certificate until a decision is made by two justices of the peace approving the marriage, after due notice to and hearing all concerned: provided, that the person filing the caution shall, within seven days thereafter, procure the decision of such justices, unless they certify that further time is necessary for the purpose, in which case a certificate shall be withheld until the expiration of the certified time. He shall, finally, deliver or withhold the certificate in accordance with the final decision of said justices. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor. (R. S., Chapter 59, Section 8.)

### **Return of Marriages to Be Made to City Clerk.**

**SECTION 18.** Every person commissioned as aforesaid (to solemnize marriages) shall keep a record of all marriages solemnized by him and, by the fifteenth of each month, make return thereof for the preceding month to the clerk of the town where the marriage was solemnized, and the clerk of the town where the intentions of marriage of each party were recorded, certifying the names of the parties, the places of their residence and the date of their marriage; and for any neglect to do so he forfeits not exceeding fifty dollars, half to the county and half to the prosecutor. (R. S., Chapter 59, Section 15.)

### **Penalty for False Certificate of Intention.**

**SECTION 19.** A town clerk who makes out and delivers to any person a false certificate of the entry of the intention of marriage, knowing

it to be false in any particular, shall be fined one hundred dollars or imprisoned six months. (R. S., Chapter 59, Section 18.)

### **City Clerk to Record Marriages, Births and Deaths.**

SECTION 20. The clerk of every town shall record in a suitable book, the marriages, births and deaths occurring therein. (R. S., Chapter 59, Section 20.) 23 Me. 435, 40 Me. 348.

### **Fees.**

SECTION 21. Town clerks shall receive, for entering and recording intentions of marriage, giving certificate of same, and recording marriage on receiving the minister's or justice's certificate thereof, one dollar, to be paid on issuing the certificate of intention; for recording births and deaths, ten cents each; for a certificate of a birth or death, ten cents; for recording sheep marks, ten cents. (R. S., Chapter 116, Section 23.)

### **Assessors to Ascertain Births and Deaths, and Return to City Clerk — Duty of Parents.**

SECTION 22. The assessors, while taking the inventory of the polls and estates annually, shall ascertain from any public record authorized by the town of which they are such assessors, or by inquiry, the births and deaths during the year ending on the last day of March, and make returns thereof to the town clerk by the last day of April; and parents, householders, masters of workhouses, almshouses, prisons and vessels, shall give notice to the clerk of their town of the births and deaths which take place in their families, houses, or vessels; and the elder person next of kin shall give notice of the death of his kindred. (R. S., Chapter 59, Section 21.)

### **Licensing Board — Licenses to Innholders and Victualers.**

SECTION 23. The municipal officers, treasurer and clerk of every town shall meet annually on the first Monday of May, or on the day succeeding, or both, and at such time and place in said town as they appoint, by posting notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innholders and victualers in said town, until the day succeeding the first Monday in May of the next year, in such house or other building as the license specifies. And at any meeting

so notified and held they may revoke licenses so granted, if in their opinion there is sufficient cause. (R. S., Chapter 27, Section 1.) 24 Me. 442, 25 Me. 171, 26 Me. 258, 82 Me. 341, 93 Me. 473.

#### **License Fee and Record.**

SECTION 24. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted. (R. S., Chapter 27, Section 4.)

#### **Jury — Tickets of Names Shall Be Kept in the Jury Box.**

SECTION 25. After the list of jurors is approved by the town the board shall write their names upon tickets and place them in the jury box, to be kept by the town clerk; and the persons whose names are in the box are liable to be drawn and to serve on any jury, at any court for which they are drawn, once in every three years and not oftener, except as herein provided. (R. S., Chapter 106, Section 4.)

#### **Mode of Drawing Jurors.**

SECTION 26. The town clerk, or, in his absence, one of the municipal officers, shall carry the jury box into the meeting, and it shall there be unlocked, and the tickets mixed by a majority of said officers present; one of them shall draw out as many tickets as there are jurors required; and the persons whose names are drawn shall be returned as jurors, unless they have served on the jury within three years, or from sickness, or absence beyond sea, or without the limits, or in distant parts of the State, they are considered by the town unable to attend. (R. S., Chapter 106, Section 11.)

#### **City Clerk to Send Reports to State Librarian.**

SECTION 27. Town clerks of the several towns, city clerks of the several cities, and treasurers of the several counties, shall promptly transmit to the librarian of the State Library copies of all reports of said towns, cities and counties, including all exhibits of town, city and county expenditures, provided that the provisions of this section shall apply to printed reports only. (P. L. of 1889, Chapter 283, Section 2.)

#### **Town Clerks to Preserve Check Lists and to Furnish Certified Copies.**

SECTION 28. Clerks of towns shall preserve the check lists used at the September elections for one year without alteration, and shall furnish to any person a certified copy thereof within twenty days after

demand and payment or tender of the legal charges therefor, under the penalty provided in Section 59 of Chapter 4 of the Revised Statutes. (R. S., Chapter 4, Section 26.)

### **Apprentices—Indentures to Be Deposited with Clerk.**

SECTION 29. One part of the indenture binding apprentices shall be kept by the master or mistress to whom the minor is bound, and the other part by the parent or guardian for the use of the minor; and when made by consent of the municipal officers as aforesaid, it shall be deposited with the town clerk. (R. S., Chapter 62, Section 4.)

### **Town Clerk to Notify State Treasurer of Election of Town Treasurer or No Money Will Be Paid to Town.**

SECTION 30. When a town treasurer is elected and qualified, the clerk shall communicate his name to the treasurer of State; and no city, town or plantation shall receive any money from the treasurer of State until the name of its treasurer has been so communicated. (R. S., Chapter 3, Section 42.)

### **City Clerk to Record Certain Attachments.**

SECTION 31. When any personal property is attached which, by reason of its bulk or other special cause, cannot be immediately removed, the officer may, within five days thereafter, file in the office of the clerk of the town in which the attachment is made, an attested copy of so much of his return on the writ as relates to the attachment, with the value of the defendant's property which he is thereby commanded to attach, the names of the parties, the date of the writ, and the court to which it is returnable; and such attachment is as effectual and valid as if the property had remained in his possession and custody. The clerk shall receive the copy, noting thereon the time, enter it in a suitable book and keep it on file for the inspection of those interested therein, for which he is entitled to ten cents. (R. S., Chapter 81, Section 26.) 19 Me. 94, 439, 45 Me. 62, 65 Me. 491, 74 Me. 49, 551, 77 Me. 418, 81 Me. 298, 81 Me. 593.

### **Clerk to Record Attachments of Vessels on the Stocks.**

SECTION 32. The attachment of a vessel on the stocks may be made by filing in the office of the clerk of the town in which such vessel is, within forty-eight hours thereafter, a copy of so much of his return

on the writ as relates to the attachment, with the name of the plaintiff, the name of the person liable for the debt, the description of the vessel as given in the writ, the date of the writ, the amount claimed, and the court to which it is returnable, and by leaving a copy of such certificate with one of the owners of the vessel, if known to him and residing within his precinct, or with the master workman thereon. (R. S., Chapter 91, Section 11.) 58 Me. 99.

**Clerk Shall Record Mortgages on Payment of Fees.**

SECTION 33. The clerk, on payment of twenty-five cents, shall record all mortgages of personal property delivered to him, in a book kept for that purpose, noting therein, and on the mortgage, the time when it was received; and it shall be considered as recorded when received. (R. S., Chapter 91, Section 2; R. S., Chapter 111, Section 5.) 19 Me. 173, 31 Me. 74, 37 Me. 186, 40 Me. 285, 43 Me. 376, 73 Me. 250, 81 Me. 298.

**Grounds to Be Fenced — Description to Be Recorded by Clerk.**

SECTION 34. When any persons appropriate for a burying ground a piece of land containing not more than half an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced and occupied as a burying ground; and they shall cause a written description of it, under their hands, attested by two disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies, or by the clerk of the town where it is situated. (R. S., Chapter 15, Section 6; Chapter 15, Section 7.)

**Town Officers and Fire Engineers Shall Give Occupant Certificate of Sufficiency of Safeguards — Shall Return Lists of Same to Clerk for Record.**

SECTION 35. Whenever the municipal officers or engineers, upon inspection, find that proper safeguards and precautions for escape in case of fire, or of alarm, have been provided, they shall give to the occupant of such building a certificate, under their hands, of such fact; which shall be valid for one year only from its date. Such officers shall return to the clerk's office of their town, monthly, a list of such certificates by them issued, which the clerk shall record in a suitable book. (R. S., Chapter 26, Section 30.)

**Lien Will Be Dissolved Unless Sworn Claim Is Filed in  
Town Clerk's Office within Forty Days — Clerk's Fees.**

SECTION 36. The lien mentioned in Section 32 of the Revised Statutes shall be dissolved unless the claimant within forty days after he ceases to labor or furnish materials as aforesaid, files in the office of the clerk of the town in which such building is situated a true statement of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien, sufficiently accurate to identify it, and the names of the owners, if known; which shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf, and recorded in a book kept for that purpose, by said clerk, who is entitled to the same fees therefor as for recording mortgages. (R. S., Chapter 91, Section 32.) 71 Me. 292, 72 Me. 108, 79 Me. 282, 83 Me. 134, 499, 85 Me. 336.

**Mortgages Are Not Valid except between the Parties,  
unless Recorded by Town Clerk — Where To Be  
Recorded.**

SECTION 37. No mortgage of personal property is valid against any other person than the parties thereto, unless possession of such mortgage is delivered to, and retained by the mortgagee, or the mortgage is recorded by the clerk of the city, town, or plantation organized for any purpose, in which the mortgagor resides when the mortgage is given. When all the mortgagors reside without the State, the mortgage shall be recorded in said city, town, or plantation where the property is when the mortgage is made; but if a part of the mortgagors reside in the State, then in the cities, towns, or plantations in which such mortgagors reside when the mortgage is given. A mortgage made by a corporation shall be recorded in the town where it has its established place of business. If any mortgagor resides in an unorganized place, the mortgage shall be recorded in the oldest adjoining town or plantation, organized as aforesaid, in the county. (R. S., Chapter 91, Section 1.)

**Fees of City Clerk for Recording.**

SECTION 38. The clerk, on payment of fifty cents, shall record all such mortgages delivered to him, in a book kept for that purpose, noting therein, and on the mortgage, the time when it was received; and it shall be considered as recorded when received. In all cases where books with printed forms are not furnished therefor, the clerk shall receive, for receiving and recording any instrument by law entitled to record, in addition to the fees now provided by law, the sum of fifteen

cents for each hundred words or fraction thereof, in excess of five hundred. Provided, however, if the instrument to be recorded does not exceed in length two hundred and fifty words then the fee for recording the same shall be twenty-five cents. (R. S., Chapter 91, Section 2.)

**Agreement that Goods Sold and Delivered Shall Remain the Property of Seller Must Be Recorded — Fee.**

SECTION 39. No agreement that personal property bargained and delivered to another shall remain the property of the seller till paid for is valid unless the same is in writing and signed by the person to be bound thereby. And when so made and signed, whether said agreement is or is called a note, lease, conditional sale, purchase or installments, or by any other name, and in whatever form it may be, it shall not be valid, except as between the original parties thereto, unless it is recorded in the office of the clerk of the town in which the purchaser resides at the time of the purchase. The fee for recording the same shall be the same as that for recording mortgages of personal property. All said agreements, whether recorded or not, shall be subject to redemption; but the title may be foreclosed in the same manner as is provided for mortgages of personal property. (R. S., Chapter 111, Section 5.)

**Pews, Real Estate, Deeds and Levies May Be Recorded in Town Clerk's Office.**

SECTION 40. Pews and rights in houses of public worship and real estate, deeds of them, and levies by execution upon them may be recorded by the clerk of the town where the houses are situated, with the same effect as if recorded in the registry of deeds. (R. S., Chapter 73, Section 29.)

**Proprietors' Records of Lands, Wharves and Other Real Estate in Common — How Preserved.**

SECTION 41. After a final division of their common property, they shall cause their records to be deposited in the office of the clerk of the town in which some part of such lands lies; and he may record votes and certify copies of such records, as the proprietor's clerk might have done; and the last clerk chosen shall continue in office until the records are so deposited. (R. S., Chapter 56, Section 12.)

**Land Appropriated by Individuals for Burying Grounds to Be Recorded by City Clerk.**

SECTION 42. When a person appropriates for a family burying ground a piece of land containing not more than one-fourth of an acre,

causes a description of it to be recorded in the registry of deeds of the same county, or by the clerk of the town where it is situated, and incloses it with a substantial fence, it shall be exempt from attachment and execution; and no subsequent conveyance of it shall be valid, while any person is interred therein; but it shall remain to him and his heirs as a burial place forever. Clerks shall receive fifty cents for recording such deeds. (Chapter 13, Sections 6 and 7, Supra.) (R. S., Chapter 15, Section 7.)

### **Goods and Baggage, Unredeemed, May Be Sold — Sales to Be Recorded.**

SECTION 43. Innholders or keepers of boarding houses have a lien on the goods and personal baggage of their guests and boarders, to secure the payment of any money due from them for board or lodging, and may enforce the same by a sale of such goods or baggage, in the manner following:— After such goods or personal baggage have remained in the possession of such innholder or boarding house keeper for six months, unredeemed, they may be sold at auction to pay the sum due for board or lodging, and the expense of advertising and selling the same. Such innholder or boarding house keeper shall give thirty days' notice of the time and place of such sale, in a newspaper published in the town where such articles are held, if any, otherwise notice thereof shall be posted in three conspicuous places therein; said notice shall give a description of such articles, and the name of the owner; and the proceeds of sale, after deducting all charges and expense of advertising and notice, shall be applied in satisfaction of the claim upon which such articles are sold, and the balance, if any, shall be held for the benefit of the person entitled thereto. All such sales shall be recorded in the office of the town clerk where the sale takes place, in a suitable book open to public inspection, in which the articles sold shall be correctly described, with the charges and expenses of advertising and selling, and the prices at which they were sold. (R. S., Chapter 91, Section 46.)

### **Clerk to Record Fence Viewers Assignments.**

SECTION 44. When fence viewers assign the portions of fences to be built as provided in Chapter 22, Section 5, of the Revised Statutes, the assignment shall be recorded in the town clerk's office. (R. S., Chapter 22, Section 5.)



## **CHAPTER 18.**

# **CITY COUNCIL.**

## **CHARTER.**

### **City Council, How Constituted.**

SECTION 1. The administration of all the fiscal, prudential and municipal affairs of the city, with the government thereof, shall be vested in one principal magistrate to be styled the mayor, and one council of nine to be denominated the board of aldermen, and one council of twenty-seven, to be denominated the board of common council, all of whom shall be inhabitants of the city; which board shall constitute and be called the city council; and shall be sworn or affirmed in the form prescribed by the constitution of the State for State officers. (City Charter, Section 2.)

### **Meetings of City Council, How Called.**

SECTION 2. The city council shall, by ordinance, determine the time of holding stated or regular meetings of the board, and shall also, in like manner, determine the manner of calling meetings and the persons by whom the same shall be called; but until otherwise provided by ordinance, special meetings shall be called by the mayor by causing a notification to be left at the usual residence or place of business of each member of the board or boards to be convened. (City Charter, Section 13; see also Section 13 of Notes on the Charter.)

(For duties of city council, see City Charter.)

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## **ORDINANCES.**

### **Stated Meetings, When Held.**

SECTION 1. Stated meetings of the city council shall be held on the first Monday evening of each month at seven and a half o'clock. If the first Monday is a legal holiday, then the stated meeting shall be held on the following Wednesday at the same time.

**Special Meetings, How Called.**

SECTION 2. Special meetings of the city council shall be called by the mayor, and in case of his absence or inability may, on the written request of five members of the city council, be called by the chairman of the board of aldermen, and in case of the absence or inability of both the mayor and chairman of the board of aldermen, upon like request be called by the president of the common council, by causing a notification thereof to be left at the residence or usual place of business of each member of the board or boards to be convened.

**Special Meetings of Board of Mayor and Aldermen, How Called.**

SECTION 3. Special meetings of the board of mayor and aldermen may be called by the mayor at such times as he may deem expedient, and in case of his absence or inability said meetings may be called by the chairman of the board, and in case of absence or inability of both the mayor and chairman of the board, may, upon the written request of three members of the board, be called by the city clerk.

**Special Meetings of the Common Council, How Called.**

SECTION 4. Special meetings of the common council may be called by the mayor whenever he deems it expedient, and in case of his absence or inability said meetings may be called by the president of the council, and in case of absence or inability of both the mayor and president of the council, may, upon written request of five members of the council be called by the city clerk.

**Notice of Meetings, How Given.**

SECTION 5. All said meetings shall be called by causing a notification thereof to be left at the residence of, or the usual place of business of each member of the board to be convened.

## **CHAPTER 19.**

# **CITY MESSENGER.**

### **City Messenger to Be Elected Annually.**

SECTION 1. There shall be elected annually, or at the time that may hereafter be fixed for the election of other subordinate city officers, a suitable person to be styled "City Messenger." He shall continue in office during the year ensuing his election, and until another person has been elected and qualified in his place.

### **City Messenger to Be Sworn.**

SECTION 2. Said city messenger shall be sworn to the faithful performance of the duties of his office.

### **Duties of City Messenger—to Deliver Summonses, Etc.**

SECTION 3. He shall receive, deliver and execute all notifications, summonses, warrants and precepts issued by the mayor, the city council, or either branch thereof, or by any committee of the same, and make due returns. He shall have all the powers of a constable.

### **To Notify Officers and Committees.**

SECTION 4. He shall receive and deliver all notifications to officers elected by the city council, or by the mayor and aldermen, and he shall deliver all notifications to committees when thereto requested by the city clerk, or clerk of the common council.

### **To Prepare Rooms Where Meetings Are Held—to Attend Meetings—to Furnish Things Necessary.**

SECTION 5. He shall have prepared and arranged the rooms in which the city council hold their sessions, and be in constant attendance on the board of aldermen when in session, and, under the direction of the mayor, or city clerk, shall provide things necessary for the accommodation of both branches of the city council, or any committee thereof.

**To Have Superintendence of City Hall — Ward Rooms.**

SECTION 6. He shall have the superintendence of the city hall, together with the furniture, and see that they are kept in good condition and ready for use. He shall also have prepared and made ready the rooms which may be selected for ward meetings, and have the same cleaned and put in order, after said meetings are adjourned. He shall at all times be subject to such further orders as the city council may make.

**To Have Charge of City Hall Library.**

SECTION 7. He shall have the care, custody and distribution of all documents, books and pamphlets published by the city, and the care and custody of all ordinances, reports, and other books and documents adapted to library use and owned by the city, and shall keep a true and complete schedule of all such ordinances, reports and documents. He shall have for the purpose of keeping said books and documents the use of one room in the city hall.

**To Keep Calendar of all Meetings of Committees.**

SECTION 8. He shall keep a calendar of all the meetings of each committee, and notify the members thereof of such meetings when requested so to do by the chairman, or by a majority of the committee.

## **CHAPTER 20.**

# **CITY PHYSICIAN.**

### **ORDINANCES.**

#### **City Physician and Consulting Physicians.**

SECTION 1. The city council shall annually, on the second Monday in the month of December, or soon thereafter as may be, make choice of a city physician, and three consulting physicians of regular standing. 71 Me. 343, 77 Me. 334.

#### **Duty of City Physician.**

SECTION 2. It shall be the duty of the city physician to give his professional attendance and services at the almshouse, at the city hospital, police station, and elsewhere, for patients under the care or at the charge of the city, whenever thereunto required by the overseers of the poor, master of the almshouse, board of health, mayor or city marshal.

#### **Duties of Consulting Physicians.**

SECTION 3. It shall be the duty of the consulting physicians in case of alarm of any contagious or other dangerous disease occurring in the city or neighborhood, to give the mayor or to either board of the city council, all such professional advice and information as they may request, with a view to the prevention of such disease, and at all convenient times when requested, to aid and assist them with their council and advice in all matters that relate to the preservation of the health of the inhabitants.

For additional duties see "Health," *post*.

## **CHAPTER 21.**

# **CITY SOLICITOR.**

### **ORDINANCES.**

#### **City Solicitor to Be Chosen — His Qualifications.**

**SECTION 1.** In the month of December, annually, and whenever a vacancy in the office shall occur, there shall be chosen by the city council, a solicitor for the City of Portland, who shall have been admitted an attorney and counsellor of the courts of the State, and he shall be removable at the pleasure of the city council.

#### **His Duties.**

**SECTION 2.** It shall be the duty of said city solicitor, by himself or by some person by him duly authorized, for whose conduct, skill and faithfulness he shall be accountable, to draft all bonds, deeds, obligations, contracts, leases, conveyances, agreements, and other legal instruments of whatever nature, which may be required of him by any ordinance or order of the mayor and aldermen, or of the city council, or which by any ordinance or order may be requisite to be done and made by the City of Portland, and which by law, usage and agreement, the city is to be at the expense of drawing.

#### **To Commence and Prosecute Suits — To Appear before the Legislature and Committees Thereof — To Furnish Legal Opinions.**

**SECTION 3.** It shall be the duty of said city solicitor to commence and prosecute all actions and suits to be commenced by the city, before any tribunal in this State, whether in law or equity, and also to appear and defend and advocate the rights and interests of the city, or any of the officers of the city, in any suit or prosecution for any act or omission in the discharge of their official duties, wherein any estate, right, privilege, ordinances or acts of the city government, or any breach of any ordinance may be brought into question. And said solicitor shall also

appear before the legislature of this State, or any committee thereof, and there in behalf of the city, represent, answer for, defend and advocate the interests and welfare of said city, whenever the same may be directly or incidentally affected, whether to prosecute or defend the same; and he shall in all matters do all and every professional act, incident to the office, which may be required of him by the city government, or by any joint or special committee thereof, or by any ordinance or order; and he shall, when required, furnish the mayor and aldermen, the common council, or any joint or special committee of either branch thereof, and to any officer of the city government, who may require it in the official discharge of his duties, with his legal opinion on any subject touching the duties of their respective offices.

**Copy of Written Opinion to Be Filed with City Clerk.**

SECTION 4. Whenever the written opinion of the city solicitor is required by the city council, or either branch thereof, or by any committee or officer of the city, the city solicitor shall furnish a copy of his written opinion to the city clerk, and the city clerk shall cause the same to be filed and indexed in his office.

**To Make Annual Report to City Council of Unfinished Business — To Be Published.**

SECTION 5. It shall be the duty of said city solicitor, annually, in the month of January, to report in writing, to the city council, all the unfinished business in his department, including the names, grounds, and stages of progress, of all suits pending, in which the city is a party or is interested; with the names and results of such suits, affecting the city, as may have been decided or adjusted during the year, and such other information as to the business of his department as he may think important, or the city council may direct; which report shall be published with the other annual reports to be made to the city council.

## **CHAPTER 22.**

# **CLAIMS.**

### **ORDINANCES.**

#### **Officers Having Knowledge of Facts Concerning Suits, Etc., to Report to City Solicitor.**

SECTION 1. Every city officer having knowledge of any fact concerning any claim or suit for or against the city, shall report such fact forthwith to the city solicitor.

#### **Member of City Council Not to Act as Attorney before City Council.**

SECTION 2. No member of the city council shall act as attorney, agent or representative of any person or corporation in making, prosecuting or presenting before the city council, or any branch or committee thereof, any claim or demand against the city.

#### **Employes of the City to Report Accidents to the City Marshal.**

SECTION 3. It shall be the duty of every employe of the city to report at once to the city marshal facts which may come to his notice concerning any accident for which the city may be liable; and the several boards and officers in charge of departments shall instruct all their employes to report such facts and information as aforesaid.

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### **RULES AND REGULATIONS OF THE BOARD OF MAYOR AND ALDERMEN.**

#### **Police to Investigate Certain Accidents — Marshal to Detail a Member of Police Force to Investigate.**

SECTION 1. Whenever the attention of any officer or member of the police force shall in any manner have been called to any accident for



which the city may be liable, such member shall forthwith communicate to the city marshal such facts and information as he may have relating thereto, and the city marshal upon receiving in any manner notice of such an accident shall immediately detail a member of said force to investigate the cause and circumstances thereof, and ascertain the names and residences of all the witnesses thereto. The city marshal shall keep a record of all accidents, and shall enter therein the names of the witnesses, a particular description of the locality and the circumstances attending the accident.

## **CHAPTER 23.**

# **CLAMS, ETC.**

### **Statutes.**

#### **Towns May Regulate the Taking of Clams — Penalty.**

**SECTION 1.** Any town may, at its annual meeting, fix the times in which clams may be taken within its limits, and the prices for which its municipal officers shall grant permits therefor; and unless so regulated by vote, residents of the town may take clams without written permit; but without permit any inhabitant within his own town, or transient persons therein, may take clams for the consumption of himself and family. This section does not apply to hotel keepers taking clams for the use of their hotels, nor does it interfere with any law relating to the taking of shell fish for bait by fishermen. Whoever takes clams contrary to municipal regulations authorized by this section shall, for each offence, be fined not more than ten dollars, or imprisoned not more than thirty days. (P. L., 1901, Chapter 284, Section 37.)

#### **City Authorized to Raise Money for Propagation of Fish.**

**SECTION 2.** Cities, towns and plantations are authorized to raise annually, by a two-thirds vote at their annual meeting, a sum not exceeding five hundred dollars, to be expended by the municipal officers thereof or by a commission elected by the cities, towns or plantations for the propagation and protection of fish in public waters located wholly or partially within their respective limits. A report of the expenditures thereof shall be made at the next annual meeting by the officer or officers authorized to expend such appropriation. (P. L., 1901, Chapter 284, Section 58.)

## **CHAPTER 24.**

# **CLERK OF THE COMMON COUNCIL.**

### **ORDINANCE.**

#### **Duties of Clerk of Common Council.**

**SECTION 1.** The clerk of the common council shall keep a full record of all the doings of the common council, which record shall be subject to the inspection of the mayor, president of the common council, or any committee of the city council. He shall give notice to the chairman of all committees of the common council, and shall transmit all papers to the board of aldermen when necessary for their concurrence. He shall preserve all papers which properly belong to the common council, and shall perform all such duties as may be prescribed to him by the board of common council, or by the city council.

## **COURTS.**

See "Municipal Court," *post*.

## **CHAPTER 25.**

# **CONSTABLES.**

### **CHARTER.**

**SECTION 1.** The qualified electors in each ward are authorized, at the annual election holden for the choice of mayor and aldermen, to elect two constables; and the inhabitants of each of the island wards have power to elect one constable who shall be resident of the island ward from which he is elected. (City Charter, Sections 12, 13 and 15.)

**NOTE.** Prior to the adoption of a city charter, constables were elected at the annual town meeting by the qualified voters. By the provisions of Section 4 of the first charter of the city this power was transferred to the city council. An amendment to this charter provided "that at the annual election, holden for the choice of mayor and aldermen, the qualified electors in each ward shall by written ballot elect two constables, who shall be denominated city constables, with all the powers, duties and liabilities appertaining to the office of constable." (P. L., 1833, Chapter 325.)

## **CHAPTER 26.**

# **CONTRACTS AND EXPENDITURES.**

### **Statutes.**

#### **Members of City Government Not to Vote on Contracts or Questions of Pecuniary Interest to Them.**

SECTION 1. No member of a city government or selectman of a town shall, in either board of such government or in any board of selectmen, vote on any question in which he is pecuniarily interested, directly or indirectly, and in which his vote may be decisive; and no action of such government or board, taken by means of such vote, is legal. (R. S., Chapter 3, Section 35.) 75 Me. 58.

#### **Pecuniary Interests in Any City Contract Prohibited.**

SECTION 2. No member of a city government shall be interested, directly or indirectly, in any contract entered into by such government while he is a member thereof; and any contract made in violation hereof shall be void. (R. S., Chapter 3, Section 36.) 68 Me. 149, 325, 88 Me. 39.

#### **Proceedings to Enforce.**

SECTION 3. The Supreme Judicial Court in equity, by writ of injunction or otherwise, may restrain proceedings in any town in violation of the two preceding sections, upon application of ten or more taxable citizens. (R. S., Chapter 3, Section 37.) 55 Me. 61, 56 Me. 32.

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### **ORDINANCES.**

#### **City Officers Not to Be Interested in Contracts with City.**

SECTION 1. No member of the city council, no subordinate city officer and no member of any board charged with the expenditure of any money appropriated by the city council, shall be interested, directly or indirectly, in any contract entered into by or in behalf of the City of

Portland, and all contracts made in violation hereof are void. The city treasurer is hereby expressly forbidden to pay any money out of the city treasury on account of any such contract made after the approval of this ordinance.

**Deficiency of Appropriation—Contracts Not to Be Concluded When Appropriations Are Deficient.**

SECTION 2. Whenever any committee or board is authorized by the city council to make any contract or to expend any moneys appropriated by the city council for any purpose, and the estimates for such contract or expenditures shall exceed in amount the appropriation specifically made for the object thereof, or the sum specifically appropriated for any purpose shall have been expended by them, and for either reason a further appropriation is necessary, such committee or board shall report to the city council the fact of such deficiency of the appropriation, a statement of the cause or causes thereof, and an estimate of the amount necessary to be added to such appropriation, and the committee or board shall not conclude such contract, or make further expenditure in the premises, until they shall be authorized so to do by the city council.

**Committees Limited in Expenditures.**

SECTION 3. No joint or special committee of the city council or either branch thereof, or any board appointed by them, shall have power to make any expenditure from the appropriation provided by the city council, to an amount exceeding three hundred dollars, except where otherwise provided in the laws of the State or ordinances of the city, until an estimate of the expenditure proposed shall have been laid before the city council, and authority for such expenditure be first had and obtained from the city council. (Ib.)

**Supplies, How Purchased.**

SECTION 4. No employe of the city, or any other person (except when otherwise provided in the laws of the State or the ordinances of the city) shall purchase upon the credit of the city any merchandise or other property for the use of any of the departments mentioned in the following section, unless such purchase shall be made upon a written order signed by the committee having in charge the department for which the purchase is made, or by some person duly authorized by the committee to sign such orders in its behalf.

This ordinance shall apply to such departments only, as are in charge of the following committees of the city council, viz.:

1. The committee on public buildings.
2. The committee on fire department.

### **Bills to Be Accompanied by Written Orders.**

SECTION 5. The city auditor shall audit and allow, and the committee on accounts shall approve only such bills for purchases made for the use of the several departments mentioned in Section 5, as are accompanied by the written orders required under the provisions of Section 4 of this ordinance.

### **Penalty.**

SECTION 6. Any person in the employment of the city in either of the departments mentioned in Section 5, who shall violate the provisions of this ordinance shall be promptly discharged from said employment and shall not thereafter be employed by any departments of the city council, or by any committee.

### **Contracts to Be Filed with City Auditor.**

SECTION 7. The city auditor shall receive, file and have in his custody all contracts in writing to which the city is a party. He shall not permit any contract to be taken from his office except on written order signed by the mayor or chairman of any committee under whose jurisdiction such contract comes, and shall in every case first obtain a receipt from the person to whom the contract is delivered.

### **In Sale of Personal Property of City Statement to Be Filed with City Auditor — Auditor to Send Bill.**

SECTION 8. Whenever in the opinion of any officer being the head of any department, any personal property of the city under the control of his department is either unnecessary or unfit for economical use in such department, or which it would be for the best interest of the city to sell, said property may be sold, by and with the consent of the committee of that department, or if no committee exists, by and with the consent of the mayor, in the following manner, viz.:

Such officer, before selling such property, shall file with the city auditor a written statement containing a description of the property, the estimated value thereof, and the name of the department to which said

property belongs. Such officer may sell said property at private or public sale, provided the written consent of the mayor is first obtained.

After such sale, the officer making the sale shall file with the city auditor a statement of the amount to be received from such sale, and the name of the purchaser, and the city auditor shall thereupon cause a bill to be sent to such purchaser, and shall notify the city treasurer of the name of the purchaser and the amount due from him.



## **CHAPTER 27.**

# **CRIERS.**

### **Statutes.**

#### **Public Crier to Cry Goods Found.**

SECTION 1. The finder of money or goods of the value of three dollars or more, shall, if the owner is unknown, within ten days give notice thereof in writing to the clerk of the town where they are found, post a notification thereof in some public place in said town, and cause it to be publicly cried therein on three several days, if there is any public crier in said town. (R. S., Chapter 98, Section 10.)

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### **ORDINANCES.**

#### **Licenses to Be Granted to Common Criers — Term of License.**

SECTION 1. The mayor and aldermen may, from time to time, grant licenses to such, and so many persons as they may deem expedient, to be common criers in this city, and such licenses shall continue in force until the first day of May next after the date thereof, unless sooner revoked by the mayor and aldermen.

#### **Crying without License.**

SECTION 2. No person shall be a common crier within the City of Portland, or cry any goods, wares, or merchandise, lost or found, stolen goods, strays or public sales, in any of the streets, squares, lanes, or market places within the city, unless he shall be licensed as aforesaid.

#### **Criers to Keep a List of Matters Cried, Etc. — Shall Not Cry Libelous Matter, Etc.**

SECTION 3. Every person so licensed shall keep a true and perfect list of all the matters and things by him cried, and the names of the persons by whom he was employed, and subject to the inspection of the mayor and aldermen, whenever they shall demand the same; and no

common crier shall publish or cry any abusive, libelous, profane or obscene matter or thing whatsoever.

**Penalty for Violation.**

**SECTION 4.** Any person who shall be guilty of a violation of this ordinance, or any part thereof, shall forfeit and pay for each offence a sum not less than one nor more than ten dollars.

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**CHAPTER 28.**

**CROTCH ISLAND.**

**Statute.**

By Chapter 355 of the Public Laws of 1889 Crotch Island was set off from the Town of Cumberland and annexed to the City of Portland.

## **CHAPTER 29.**

# **DANCE HALLS.**

### **ORDINANCES.**

#### **Keeper of Dance Halls to Maintain Order.**

SECTION 1. No keeper of a dance hall or other place of public resort shall suffer such place to be used or frequented by noisy or disorderly persons, or suffer any breach of the peace or disturbance of public order or decorum, by noisy or disorderly conduct on the premises.

#### **Penalty.**

SECTION 2. Every person who shall violate the provisions of this ordinance shall, upon conviction, be liable to a penalty of not less than ten nor more than fifty dollars.

## **CHAPTER 30.**

# **DAY'S WORK.**

## **ORDINANCES.**

### **Nine Hours Constitute a Day's Work.**

**SECTION 1.** Nine hours shall constitute a day's work for the employes of the city in the following departments: street department, drains and sewers, public parks and cemeteries.

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## **CHAPTER 31.**

# **DEERING ANNEXATION.**

(See amendment to City Charter, page 61.)

## **CHAPTER 32.**

# **DEAD HUMAN BODIES.**

### **Statutes.**

#### **Unclaimed Bodies Subject to Use of Medical School of Maine.**

SECTION 1. The body of any person dying in the State, which shall not be claimed, seasonable notice being given for burial by the family or next of kin of such person, shall be subject to the use of the medical school of Maine for anatomical purposes as hereinafter provided, and if at any time said school receives a greater number of bodies than it needs for the instruction of its students, it may deliver the excess to any regular physician or surgeon in the State for the same purpose, provided, however, if ten of the legal voters of the town wherein such person dies shall file, with the municipal officers thereof, their written objections to such dispositions being made of the body, then the municipal officers may order the body of the deceased to be buried, and such burial shall be a bar to any claim upon the body for anatomical purposes. (R. S., Chapter 13, Section 3.)

#### **Municipal Officers to Notify Officers of School and to Deliver Bodies — Bond to Be Given — Penalty.**

SECTION 2. Persons having the care of such bodies shall forthwith notify the municipal officers of the town in which such bodies are, who shall in turn immediately notify the officers of said school, stating the age and sex of the deceased, and the cause of death, if known, and on request of the officers of said school, made within two days after receiving such notice, said municipal officers shall deliver such body to the officers of such school, or to any regular physician or surgeon by them designated to receive the same; but before receiving any such body, said medical school, physician or surgeon, shall give bond to the treasurer of such town, as provided in Section 2, of Chapter 13 of the Revised Statutes. Whoever knowingly violates this section forfeits thirty dollars to be recovered by an action of debt, one-half to the prosecutor, and one-half to said school. (R. S., Chapter 13, Section 4.)

**Board of Distribution of Dead Bodies Shall Be Notified by City Officers of Deaths Occurring in Almshouse — Family to Be Notified — If Body Is Not Claimed, It Shall Be Delivered to Board — How Disposed of.**

SECTION 3. All public officers, agents, and servants of any and every county, city, town, and other municipality, and of any and every almshouse, prison, morgue, hospital, or any other public institution having charge or control over dead human bodies required to be buried at public expense, provided the deceased was at least fifteen years of age, are hereby required to notify immediately the "Board of Distribution of Dead Bodies" or such person or persons as may from time to time be designated by said board, or its duly authorized officer or agent, whenever any such body or bodies come into his or their possession, charge, or control, and shall immediately notify any known member of the family or next of kin of the deceased, and shall, if the body is not claimed, without fee or reward, forthwith deliver such body or bodies to said board, or its duly authorized officer or agent, and permit and suffer the said board or its agents, or the physicians and surgeons from time to time designated by it or them, who comply with the provisions of this Act, to take and remove any and all such bodies to be used within this State for the advancement of medical education; but no notice need be given and no such body shall be delivered, if any person, satisfying the authorities in charge of said body that he or she is a member of the family or next of kin, or fraternal beneficiary organizations to which the deceased may belong, shall claim the body for burial, but it shall be surrendered to him or her for interment or burial at public expense and no notice shall be given and no body delivered to said board or its agents, if such deceased person was a traveller and not a vagabond, who died suddenly, in which case the said body shall be buried. (P. L., 1897, Chapter 315, Section 2.)

**Expenses, How Paid.**

SECTION 4. Neither the State nor any county or municipality, nor any officer, agent, or servant thereof, shall be at any expense by reason of the delivery or distribution of any such body, but all the expenses thereof, and of said board of distribution, shall be paid by those receiving the bodies, in such manner as shall be specified by said board of distribution. (P. L., 1897, Chapter 315, Section 6.)

**Fine for Neglect to Discharge Duties.**

SECTION 5. Any person having duties enjoined upon him by the provisions of this Act, who shall neglect, refuse, or omit to perform the same as provided by the provisions of this Act, shall, on conviction thereof, be liable to a fine of not less than one hundred nor more than five hundred dollars for each offence. (P. L., 1897, Chapter 315, Section 7.)

## CHAPTER 33.

# DOGS.

### Statute.

#### **Assessors to Make List of Dogs.**

SECTION 1. Assessors of cities, towns and plantations shall include in their inventories, lists of all dogs owned by or in possession of any inhabitant on the first day of April, setting the number and sex thereof opposite the names of their respective owners or persons in whose possession the same are found, and make a return to the state treasurer of said lists, and also of the number of dogs killed, as required by Section 7 of this Act, on or before the fifteenth day of July following; and if any city or town shall fail to return to the state treasurer on or before September first of each year, a sum of money equal to the license required by this Act on all dogs living on the first day of July preceding, such deficiency shall be added to the State tax of such delinquent city or town for the following year. (P. L., 1893, Chapter 287.)

#### **Dogs Shall Be Licensed Annually — Collar — License Fee.**

SECTION 2. Every owner or keeper of a dog more than four months old shall annually, before the first day of April, cause it to be registered, numbered, described and licensed for one year from the first day of April, in the office of the clerk of the city, town or plantation where said dog is kept, and shall keep around its neck a collar distinctly marked with the owner's name and its registered number, and shall pay to said clerk for a license the sum of one dollar and fifteen cents for each male dog and each female dog incapable of producing young, and three dollars and fifteen cents for each other female dog. And a person becoming the owner or keeper of a dog after the first day of April, not duly licensed, shall cause it to be registered, numbered, described and licensed as provided above. Every owner or keeper of dogs, kept for breeding purposes, may receive annually a special kennel license authorizing him to keep such dogs for said purpose, provided he keeps such dogs within a proper inclosure. When the number of dogs so kept



does not exceed ten, the fee for such license shall be ten dollars; when the number of dogs so kept exceeds ten, the fee for such license shall be twenty dollars, and no fees shall be required for the dogs of such owner or keeper under the age of six months. Dogs covered by the kennel license shall be excepted from the provisions of this section requiring registration, numbering or collaring. (Ib.)

#### **City Clerk Shall Issue License and Receive Fee.**

SECTION 3. The clerks of cities, towns and plantations shall issue said license and receive the money therefor, and pay the same to the treasurer of their respective cities, towns and plantations, within thirty days thereafter, retaining to their own use fifteen cents for each license issued; and the said treasurer shall pay the money so received to the state treasurer on or before September first of each year. Clerks of cities, towns and plantations shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed, and the sex, registered numbers and description of all such dogs; provided, however, that the sex, registered numbers and description shall not be required of dogs covered by a kennel license. (Ib.)

#### **City Treasurer Shall Keep Account of Money Received.**

SECTION 4. Each city, town and plantation treasurer shall keep an accurate and separate account of all moneys received and expended by him under the provisions of this Act. (Ib.)

#### **Penalty for Keeping Dog Contrary to Provisions of This Act.**

SECTION 5. Whoever keeps a dog contrary to the provisions of this Act shall forfeit ten dollars, five of which shall be paid to the complainant and five to the treasurer of the city, town or plantation in which such dog is kept. (Ib.)

#### **Warrants to Be Issued to Officers to Kill Unlicensed Dogs — Fees.**

SECTION 6. The mayor of each city, the selectmen of towns, and the assessors of plantations, shall annually, within ten days from the first day of May, issue a warrant to one or more police officers or constables, directing them to proceed forthwith either to kill or cause to be killed, all dogs within such city, town and plantation not licensed and collared or inclosed according to the provisions of this Act, and to enter complaint against the owners or keepers thereof. Such officers

shall receive from the city, town or plantation, one dollar for each dog so killed. All bills for such services shall be approved by the mayor of cities and municipal officers of towns and plantations. (Ib.)

#### **Return of Warrant.**

SECTION 7. Each police officer or constable to whom the warrant named in Section 6 of this Act is issued, shall return the same on or before the first day of July following to the officer or officers issuing the same, and shall state in said return the number of dogs killed and the names of the owners or keepers thereof, and whether all unlicensed dogs therein have been killed, and the names of persons against whom complaint has been made under the provisions of this Act. (Ib.)

#### **Penalty if Officers Neglect Duty.**

SECTION 8. Any city or town officer who refuses or willfully neglects to perform the duties imposed by this Act, shall be punished by fine not less than ten dollars nor exceeding fifty dollars, by an action at law, the same to be paid into the town treasury. (Ib.)

#### **Damages for Loss of Sheep.**

SECTION 9. When any person, resident of this State, shall sustain any damage to his sheep, lambs or other domestic animals, by reason of their being killed or injured by dogs, he shall give information thereof to the mayor of cities or to one of the municipal officers of towns or plantations where such damage was done within twenty-four hours after he has knowledge of the same, and thereupon said mayor or municipal officers shall estimate the amount of such damage and all damage done by dogs to sheep, lambs or other domestic animals proved to the satisfaction of the above officers, to have been committed in their city, town or plantation, shall be paid by said officers, and any city, town or plantation paying such damages may maintain an action on the case against the owner or keeper of such dog or dogs, to recover such amount as may be adjudged to be the actual damage committed. (Ib.)

#### **Municipal Officers Shall Annually Post Notices of Requirements of This Act.**

SECTION 10. The mayor of each city and the municipal officers of each town or plantation shall annually, at least twenty days before the first day of April, post a notice in the usual place of posting notices, of their annual meetings in their respective cities, towns and plantations,

setting forth all the requirements of this chapter with the penalties for noncompliance with the same; which notices shall be forwarded annually to the several cities, towns and plantations, by the secretary of State. (Ib.)

**Owner of Registered Dog May Recover Value if Dog Is Unlawfully Killed or Stolen.**

SECTION 11. Any person who shall steal or confine and secrete any registered dog, or shall kill any such dog, unless such killing be justifiable in the protection of person or property, shall be liable to the owner in a civil action for the full value of such dog. (Ib.)

**Joint Owners of Dog Liable Jointly and Severally.**

SECTION 12. When any sheep, lambs or other domestic animals shall have been damaged by two or more dogs at the same time, kept by two or more persons, the owners or keepers of such dogs shall be jointly and severally liable for such damage. (Ib.)

**When Damages Shall Be Paid by State.**

SECTION 13. When any town shall have paid damages to the owners of sheep, lambs or other domestic animals for losses incurred from dogs, as provided in Section 9 of this Act, and are unable to identify the dog or dogs doing such damage, or to collect the amount of said damages from the owners of said dogs when identified, the municipal officers of such cities, towns and plantations shall make a statement of facts in the case, together with the amount of damages so paid, and shall transmit the same to the State treasurer, who shall reimburse to the city, town or plantation paying such damage, the amount of damage so paid; provided, however, the amount paid by the State treasurer to reimburse said cities, towns and plantations, as aforesaid, shall in no case exceed the amount received from licenses aforesaid. (Ib.)

**How Money in State Treasury Shall Be Disposed of.**

SECTION 14. All money received by the State treasurer, as provided in Section 3 of this Act, and remaining unexpended at the end of the year, shall be credited to the several cities, towns and plantations upon their State tax in proportion to the amount each has paid into the treasury under the provisions of this Act; provided, however, that the amount to be refunded to such plantations as are taxed as wild land shall be paid direct to the plantation treasurer instead of being credited on State tax. (Ib.)

**City May Pass Laws to Regulate Dogs — Damage by Dogs.**

SECTION 15. Towns may pass By-laws, to regulate the going at large of dogs therein. When a dog does damage to a person or his property, his owner or keeper and also the parent, guardian, master or mistress of any minor who owns or keeps such dog, forfeits to the person injured, the amount of the damage done, to be recovered by action of trespass. (P. L., 1895, Chapter 115.) 78 Me. 559, 83 Me. 568, 74 Me. 488, 62 Me. 279, 52 Me. 178.

**Mayor and Municipal Officers to Estimate Damages Done by Dogs Killing Sheep — City to Pay Damages.**

SECTION 16. When any person, resident of this State, shall sustain any damage to his sheep, lambs or other domestic animals, by reason of their being killed or injured by wild animals he shall give information thereof to the mayor of the city, or to one of the municipal officers of the town or plantation where such damage was done within twenty-four hours after he has knowledge of the same, and thereupon said mayor or municipal officers shall estimate the amount of such damage, and all such damage proved to the satisfaction of the above officers to have been committed by wild animals, and within the limit of their city, town or plantation, shall be paid by such officers out of the treasury of their city, town or plantation. (P. L., 1901, Chapter 178, Section 1.)

**State Treasury to Reimburse City.**

SECTION 17. When any city, town or plantation shall have paid damages to the owners of sheep, lambs or other domestic animals under Section 1 of this chapter, the mayor of such city, or the municipal officers of such town or plantation, shall make a statement of facts in the case, together with the amount of damages so paid, and shall transmit the same to the State treasurer, who shall reimburse such city, town or plantation to the amount of such damage from the general fund received by the State under Section 3, Chapter 287 of the Public Laws of 1893. (P. L., 1901, Chapter 178, Section 2.)

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**ORDINANCES.****Proceedings in Case Any Dog Shall Disturb the Quiet of Any Person by Barking, Etc.**

SECTION 1. On complaint being made to the mayor, of any dog within this city which shall by barking, biting, howling, or in any other way or manner disturb the quiet of any person or persons whomsoever,

the mayor shall issue notice thereof to the person owning, keeping, or permitting such dog to be kept; and in case such person shall neglect to cause such dog to be forthwith removed and kept beyond the limits of the city, or destroyed, he shall forfeit and pay one dollar for every day during which such neglect shall continue after such notice; provided, that the justice before whom the complaint respecting such dog shall be heard and tried, shall be satisfied that such dog had, in manner aforesaid, disturbed the quiet of any person in said city.

**Penalty.**

SECTION 2. In case any dog shall be found loose or going at large, contrary to any of the foregoing provisions, the owner or keeper thereof, or the head of the family or keeper of the house, store, shop, office, or other place where such dog is kept or harbored, shall forfeit and pay a sum not exceeding ten dollars.

## **CHAPTER 34.**

# **DRAINS AND DITCHES.**

### **Statute.**

(Chapter 153 of P. L. of 1893.)

### **Towns May Construct Ditches through Lands of Persons and Corporations—Municipal Officers to Control—Damages.**

**SECTION 1.** The municipal officers of a town may, at the expense of the town, construct ditches and drains to carry water away from any highway or road therein, and over or through any lands of persons or corporations when they deem it necessary for public convenience or for the proper care of such highway or road, provided that no such ditch or drain shall pass under nor within twenty feet of any dwelling house without the consent of the owner thereof. Such ditches or drains shall be under the control of said municipal officers, and willful interference therewith shall be punished as is provided by statute for obstruction in a traveled road. If such town does not maintain and keep in repair such ditches and drains, the owner or occupant of the lands through or over which they pass, may have his action against the town for damages thereby sustained.

### **Notice to Be Given before Land Is Taken.**

**SECTION 2.** Before land is so taken notice shall be given and damages assessed and paid therefor as is provided for the location of town ways. (See also R. S., Ch. 16.)

## CHAPTER 35.

# DRAINS AND SEWERS.

### Statute.

(Chapter 184 of P. L. of 1891.)

### **Mayor and Aldermen Authorized to Lay Out Drains and Sewers.**

SECTION 1. The mayor and aldermen of the City of Portland whenever in their judgment the public interest requires, may lay out, make, maintain and repair any public drain or common sewer in said city, and may assess upon the owners of the abutting lots and other lots benefited thereby, a proportional part of the charge of making such drain or common sewer, to be ascertained and assessed in the manner hereinafter provided.

### **Shall Assess Owners of Lots towards Paying Expense— Location and Assessments to Be Recorded—Notice of Assessments and Hearing Thereon, How Given— Assessments May Be Revised, Etc.**

SECTION 2. When any such drain or sewer is completed, the mayor and aldermen of said city shall adjudge what parcels of land are benefited thereby, and shall estimate and assess upon such lots and parcels of land, and against the owner thereof, if known, such sum, not exceeding such benefit, as they may deem just and equitable, toward defraying the expenses of constructing and completing such drain or sewer, the whole of said assessments not to exceed two-thirds of the cost of such drain or sewer, and such drain or sewer shall forever thereafter be maintained and kept in repair by said city; such municipal officers shall file with the clerk of said city the location of such drain or sewer, with a profile description of the same, with the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of each lot or parcel of land, if known, and the clerk of said city shall record the same in a book kept for that purpose, and each person so assessed shall be notified of such assessment, by having an authentic

copy of said assessment, with an order of notice signed by the clerk, stating a time and place for a hearing on the subject matter of said assessments, served upon him in hand, or left at his last usual place of abode in said city seven days, at least, before the date fixed for said hearing; or such notice may be given by publishing the same in one or more newspapers printed in said city, said publication to be made seven days prior to said hearing; a return made of a copy of such notice by any constable in said city, or the production of the paper containing such notice shall be conclusive evidence that said notice has been given, and upon such hearing the municipal officers shall have power to revise, increase or diminish any of such assessments, and all such revision, increase or diminution shall be in writing, and recorded by such clerk.

### **Appeals May Be Taken to Supreme Judicial Court.**

SECTION 3. Any person who is aggrieved by the doings of said municipal officers in laying out and constructing said sewer, or in making said assessments, may appeal therefrom to the next term of the Supreme Judicial Court which shall be holden in the County of Cumberland, more than thirty days from and after the day when the hearing last mentioned is concluded, excluding the day of the commencement of the session of said court; the applicants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days, at least, before the session of the court, and shall at the first term file a complaint setting forth substantially the facts in the case; either party shall be entitled to a trial by jury, or the matter in dispute may, if the parties so agree, be decided by a committee of reference, and the court shall render such judgment and decree in the premises as the nature of the case may require; at the trial exceptions may be taken to the ruling of the judge, as in other cases.

### **Conditions upon Which Private Drains May Enter Public Sewer — Permits to Be Recorded — Penalty for Entering without Permit.**

SECTION 4. Any person may enter his private drain into any such public drain or common sewer while the same is under construction and before the same is completed, and before the assessments are made, on obtaining a permit in writing from the municipal officers, or some person by them duly authorized, but after the same is completed and the assessments made no person shall enter his private drain into the same until he has paid his assessment and obtained a permit in writing from the municipal officers or other person by them duly authorized, as



aforesaid. All permits given to enter any such drain or sewer shall be recorded by the city clerk of said city before the same are issued. Any person who shall, directly or indirectly, enter any such drain or common sewer without first obtaining a permit as aforesaid, shall be subject to a fine not exceeding one hundred dollars.

### **Liens on Lots for Payment of Assessments — How Enforced.**

SECTION 5. All assessments made under the provisions of this Act shall create a lien upon each and every lot or parcel of land so assessed, which lien shall continue one year after said assessments are payable, and within ten days after they are made the clerk of said city shall make out a list of all such assessments, the amount of each assessment, and the name of the person, if known, against whom the same is assessed, to be by him certified; and he shall deliver the same to the treasurer of said city, and if assessments are not paid within three months from the date of said assessments, then the treasurer shall proceed to sell such of said lots or parcels of land upon which said assessments remain unpaid, or so much thereof, at public auction, as is necessary to pay such assessments, together with interest thereon after the expiration of said three months from the date of said assessments, and all costs and incidental charges, in the same way and manner that real estate is advertised and sold for taxes under Chapter 6 of the Revised Statutes, which sale shall be made within one year from the time said assessments are made; and upon such sale the treasurer shall make, execute and deliver his deed to the purchaser thereof, which shall be good and effectual to pass the title to such real estate.

### **Lots May Be Redeemed.**

SECTION 6. Any person, to whom the right by law belongs, may at any time within one year from the date of said sale, redeem such real estate by paying to the purchaser or his assigns the sum for which the same was sold, with interest thereon at the rate of twenty per centum per annum, with costs for reconveyance.

### **If Assessments Are Not Paid or Enforced by Sales, City May Maintain Action.**

SECTION 7. If said assessments are not paid, and said city does not proceed to collect said assessments by a sale of the lots or parcels of land upon which said assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments by a sale

of the real estate so assessed, then the said city, in the name of the inhabitants of said city, or in the name of such city, may sue for and maintain an action against the party so assessed, for the amount of said assessment as for money paid, laid out and expended, in any court competent to try the same, and in such suit may recover the amount of such assessment with twelve per cent. interest on the same from the date of said assessment, and costs; provided, however, that if any lot, when sold in the manner before provided, shall not sell for enough to pay the amount of said assessment with interest and cost, the owner thereof shall be under no personal liability for the same.

#### **City Charter Amended.**

SECTION 8. Section twenty-four of Chapter two hundred seventy-five of the Private and Special Laws, approved March twenty-fourth, eighteen hundred sixty-three, and Chapter three hundred sixty-eight of the Private and Special Laws, approved February twenty-sixth, eighteen hundred seventy-three, are hereby repealed.

(See also Revised Statutes, Chapter 16.)

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### **RULES AND REGULATIONS OF THE BOARD OF MAYOR AND ALDERMEN.**

#### **Construction.**

SECTION 1. The commissioner of public works shall keep an accurate account of the expense of constructing and completing each public drain or common sewer hereafter built, and within three months after the completion of the same he shall furnish to the board of mayor and aldermen a statement of such expense, together with the location, and a profile description of such drain or sewer, accompanied with a plan of all the lots or parcels of land benefited thereby, which plan shall give the size and number, or other sufficient description of said lots, together with the name of the owner or owners, if known. In the division of cost of construction of all drains and sewers, no part of the cost of construction of catch basins required for such drains or sewers shall be charged to the abutters.

#### **Sewers to Be Built in Center of Street.**

SECTION 2. Every common sewer to be hereafter constructed in any street or highway, shall be laid, as near as possible, in the center of such street or highway, and shall be built of such dimensions and of such materials as the mayor and aldermen shall direct.

**Private Drains.**

SECTION 3. All private drains which shall hereafter enter into a public sewer shall be built of such materials and in such manner as the mayor and aldermen shall direct, and shall be laid under the direction of the commissioner of public works.

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**ORDINANCES.****Drains Not to Be Sunk under Sidewalks—Penalty.**

SECTION 1. No person shall sink or lay any drain or aqueduct under any sidewalk, or nearer such sidewalk than the outer edge of the gutter of such street, under a penalty of not less than ten nor more than fifty dollars, provided that nothing herein contained shall prevent any person from constructing a sewer from his land or premises to the public sewer under proper authority.

**Drains Not to Empty upon Surface—Penalty.**

SECTION 2. No person shall let out or empty upon the surface of any street, lane or alley, any cellar drain, sink drain, or other drain, so that the water shall flow therefrom on to the street, lane or alley, under a penalty of ten dollars for each offence, and the further sum of ten dollars for each month that such drain shall be so continued to be let out or emptied as aforesaid.

**Water from Roofs.**

SECTION 3. It shall be lawful for all persons having care of any buildings, at their own expense, to carry the rain water from the roofs of said buildings into any public sewer, free of any charge from the city, provided, however, permission so to do is first obtained from the board of mayor and aldermen. The permit shall state the manner in which said work shall be done. Whoever shall violate any of the provisions of this section shall, on conviction, forfeit not less than ten nor more than fifty dollars for each offence.

## **CHAPTER 36.**

# **ELECTIONS.**

### **Statutes.**

#### **Qualifications of Electors — Exceptions — Written Ballot — Soldiers and Seamen in the United States Service — Students at Colleges and Academies.**

**SECTION 1.** Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for governor, senators and representatives, in the town or plantation where his residence is so established; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established. (Const. of Maine, Article II, Section 1.) 7 Me. 492, 76 Me. 158.

No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State. (Resolve of 1864. Amendment, Article X, to the Const.) 7 Me. 492, 497, 44 Me. 507, 68 Me. 589, 592, 57 Me. 148, 58 Me. 564, 76 Me. 158.

#### **Educational Qualification of Voters.**

**SECTION 2.** No person shall have the right to vote or be eligible to office under the constitution of this State, who shall not be able to read the constitution in the English language and write his name; provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards at the

time this amendment shall take effect. (Constitutional Amendment adopted September 12, 1891.) 85 Me. 511.

### **Electors Exempt from Arrest on Days of Election.**

SECTION 3. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom. (Const., Article II, Section 2.) 8 Me. 187.

### **Exempt from Military Duty.**

SECTION 4. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger. (Ib., Section 3.)

### **Time of Election — Biennial Elections.**

SECTION 5. The election of governor, senators and representatives, shall be on the second Monday of September biennially forever. The governor, senators and representatives in the legislature, shall be elected biennially, and hold office two years from the first Wednesday in January next succeeding their election. (Ib., Section 4, and amendment of 1879.)

### **Who Are Legal Voters.**

SECTION 6. Every person qualified to vote for governor, senators and representatives, in the town in which he resides, may vote in the election of all town officers, and in all the affairs thereof. (R. S., Chapter 4, Section 11.)

### **Mode of Warning Meetings for Election of Governor, Etc.**

SECTION 7. The selectmen of every town, by their warrant, shall cause the inhabitants thereof, qualified according to the constitution, to be notified and warned, seven days at least before the second Monday of September, biennially, to meet at some suitable place, designated in said warrant, to give in their votes for governor, senators and representatives, as the constitution requires, and such meeting shall be warned like other town meetings. (R. S., Chapter 4, Section 17.)

### **Meetings for Choice of Certain Officers and for Determining Questions.**

SECTION 8. All town meetings, required for election of county treasurer, or register of deeds, of representatives to Congress, or of president and vice president of the United States, or for the determination of questions submitted to the people by the legislature, as to

calling, notifying and conducting them, shall be subject to the regulations made in this chapter for the election of governor, senators and representatives, unless otherwise provided by law. (R. S., Chapter 4, Section 31.)

### **Results of Ballotings, How Ascertained.**

SECTION 9. To determine the result of any election by ballot, the number of persons who voted shall first be ascertained by counting the whole number of separate ballots given in, which shall be distinctly stated, recorded, and returned. No person ineligible to the office shall be declared elected; but such votes shall be counted to determine whether any person has received the necessary number of all the votes cast. In case of representatives to Congress, and members of the legislature, registers of deeds, and county and State officers, except where a different rule is prescribed in the constitution, the person or persons, not exceeding the number to be voted for at any one time for any such office, having the highest number of votes given at such election, shall be declared elected, and the governor shall issue a certificate thereof. If by reason of two or more persons receiving an equal number of votes, the election of the requisite number of officers cannot be declared, without declaring more than the requisite number elected, no one of those having an equal number of votes shall be declared elected. In all other cases no person shall be declared elected, who has not received a majority of the whole number of votes counted as aforesaid; and if a number greater than is required to be chosen receive a majority of said number, the number so required of those who have the greatest excess in votes over such majority, shall be declared elected. If the number to be elected cannot be so completed, by reason of any two or more of such persons having received an equal number of votes, the persons having such equal numbers shall be declared not elected. In all cases not otherwise provided for, if no person eligible to the office receives the requisite number of votes to elect him, then the governor shall order a new election; provided, however, that nothing in this section shall give the governor and council authority to determine questions of eligibility in cases of senators and representatives to the legislature. (Ib., Section 32.) 71 Me. 373, 70 Me. 560.

### **Congressional Apportionment.**

SECTION 10. The counties of York and Cumberland shall compose the first district, and be entitled to one representative. The counties

of Oxford, Franklin, Androscoggin, Sagadahoc, Knox and Lincoln, shall compose the second district, and be entitled to one representative. The counties of Kennebec, Somerset, Waldo and Hancock, shall compose the third district, and be entitled to one representative. The counties of Penobscot, Piscataquis, Aroostook and Washington, shall compose the fourth district, and be entitled to one representative. (P. L., 1891, Chapter 65.)

### **Election of Representatives.**

SECTION 11. The election of representatives to Congress shall take place and be on the second Monday of September in each year. (P. L., 1891, Chapter 65.)

### **Qualifications of Representatives.**

SECTION 12. The representatives chosen in the several districts shall, at the time of their election, be residents therein. The foregoing division of the State into representative districts shall be and continue in force until an apportionment shall be made for representatives to Congress, after taking the twelfth census. (P. L., 1891, Chapter 65.)

### **Vacancies, How Filled.**

SECTION 13. In case any vacancy among the representatives to Congress requires an election, then such vacancy shall be filled by the proper district under this apportionment. (P. L., 1891, Chapter 65.)

### **Clerk to Transmit Returns of Votes to Secretary of State.**

SECTION 14. The clerk of each town shall cause to be delivered at the office of the secretary of State the returns of votes given in his town for governor, senators, representatives to the legislature, representatives to Congress, electors of president and vice president of the United States, and for county officers, within thirty days next succeeding any meeting for their election, or shall deposit them, postpaid, in some post office, directed to the secretary of State, within fourteen days after such meeting, to be transmitted by mail; and shall also forward to such office, as soon as practicable, a statement attested by him of the number of votes for said several officers, given at such election in his town, which shall be opened and filed by the secretary, and kept for public examination. (Ib., Section 35.) 64 Me. 598.

**County Attorney to Be Notified if Return Not Received — His Duty.**

SECTION 15. If any such return is not received by the secretary of State within thirty days next after such meeting he shall forthwith notify the county attorney of the county in which such town is situated, who shall give immediate notice thereof to the clerk of such town, and unless he receives satisfactory evidence that said clerk has complied with the requirements of the preceding section, he shall prosecute for the penalty hereinafter provided. (Ib., Section 36.)

**Loss of Returns, How Supplied.**

SECTION 16. When such original return is lost or destroyed the selectmen and clerk of such town, on receiving information of such loss or destruction shall forthwith cause a copy of the record of the meeting at which such vote was given, to be made with their certificate upon the same sheet, that it is a true copy of the record, that it truly exhibits the names of all persons voted for, for the offices designated, and the number of votes given for each at such meeting, and that said copy contains all the facts stated in the original return. (Ib., Section 37.)

**Oath to Be Made to Copy of Record.**

SECTION 17. The selectmen and town clerk, who were present at the meeting and signed the original return, shall sign the certificate mentioned in the preceding section, designating their office against their names as in the original return, and make oath that said copy and certificate are true, before some justice of the peace of the county, who shall make certificate of such oath on the same paper. (Ib., Section 38.)

**Certificate, How Sealed and Returned.**

SECTION 18. Such copy and certificate shall then be sealed up, and directed to the secretary of State, with the nature of the contents written on the outside; and the clerk of such town shall cause the same to be delivered into the office of the secretary of State as soon as may be. (Ib., Section 39.)

**Vacancies, How Filled in Towns Not Classed for Representatives.**

SECTION 19. When the selectmen of any town, not classed with others as a representative district, have knowledge that the seat of a representative thereof has been vacated, they shall forthwith issue their



warrant, giving at least seven days' notice, for a meeting of the electors of said town to fill such vacancy; and at such meeting like proceedings shall be had, as at any meeting held on the second Monday in September for the like purpose. (Ib., Section 40.)

**Check Lists to Be Preserved by Clerks of Towns and to  
Furnish Certified Copies.**

SECTION 20. The clerks of towns shall preserve the check lists used at the September elections, for one year without alteration, and shall furnish to any person a certified copy thereof within twenty days after demand and the payment or tender of the legal charges therefor, under the penalty provided in Section 59, of Chapter 4, of the Revised Statutes. (Ib., Sections 13, 14 and 26.)

**Ballot Boxes, How Constructed and Used — Votes, How  
Received — Officers, Duties of.**

SECTION 21. Ballot boxes used at the elections shall be covered at the top with a slide only, which shall be kept shut, except when opened to receive a ballot; but such boxes may contain mechanical devices which tend to prevent fraud in elections and do not materially abridge the rights of voters; and if the presiding officers do not comply with the requirements of this chapter, or attempt to evade the same, they shall be subject to the penalties provided in Section 59, of Chapter 4, of the Revised Statutes. (Ib., Section 27.)

**Penalties in Certain Cases, How Recovered.**

SECTION 22. Any penalty provided in this chapter, if the treasurer refuses or neglects for ten days after written request of any voter to commence suit therefor, may be recovered by said voter in a suit in his own name, to the same uses as if recovered by said treasurer. (Ib., Section 28.)

**Electors in Cities to Meet in Wards — Warden to Preside.**

SECTION 23. For all the purposes mentioned in Sections 17 and 31, of Chapter 4, of the Revised Statutes, the inhabitants of cities shall meet as the constitution requires, in ward meetings, to be notified and warned, as town meetings for similar purposes are. The warden shall preside; the clerk shall make such record as the constitution requires, and the city constables shall preserve order. (Ib., Section 41.)

**Warden Pro Tempore May Be Chosen.**

SECTION 24. If the warden is absent from any such meeting, or refuses or neglects to preside, a warden pro tempore shall be chosen, and during such choice the ward clerk shall preside; and the warden pro tempore accepting the trust, shall be duly sworn, and have the power and perform the duties of warden of such meeting, and be liable to like penalties. (Ib., Section 42.)

**In Cities, Names of Representatives on Same Lists as Other Officers.**

SECTION 25. In voting for representatives to the legislature in the wards of a city, the names shall be on the same ballot with the other officers to be chosen at the meeting by voters of like qualifications, unless the board of aldermen in their warrant notifying the meeting require a separate ballot or ballots. (Ib., Section 45.)

**If No Choice, Further Meetings — Vacancies by Death and Otherwise.**

SECTION 26. When a choice of any such representative is not effected, the aldermen shall call new meetings of the wards for the purpose, to be held at the same time, within two weeks after any former meeting; and like proceedings shall be had at such meetings, as at the first, until a choice is effected. And when the aldermen of any city have knowledge that the seat of a representative therein has been vacated, they shall call meetings of the wards for the purpose of filling such vacancy; and like proceedings shall be had at such meetings as at other meetings for the election of representatives. (Ib., Sections 38, 44 and 47.) 70 Me. 560, 570.

**Wardens and Clerks in Cities, How Elected — Term of Office of.**

SECTION 27. At the annual election for the choice of mayor and aldermen in cities, the electors in each ward shall, by written ballot, elect a warden and clerk, who shall enter on their duties on the Monday following their election, and hold their offices for one year therefrom, and until others shall have been chosen and qualified in their places. (R. S., Chapter 3, Section 33.)

**Penalty for Neglect to Perform Duties Required of Selectmen.**

SECTION 28. If any town officer, or such officer chosen pro tempore, wilfully neglects or refuses to perform any of the duties required of him,

or wilfully does, authorizes, or permits to be done, any thing prohibited by the constitution or by this chapter, he shall, for each offence, forfeit not less than fifty, nor more than five hundred dollars, and be imprisoned not more than nine, nor less than three months, except where otherwise expressly provided in this chapter. (R. S., Chapter 4, Section 59.) 10 Me. 111.

**Penalty for Neglect of Municipal Officers to Issue Warrants for Meetings for Choice of Officers—Penalty, How Recovered, and by Whom.**

SECTION 29. If the aldermen of cities, selectmen of towns, or assessors of plantations neglect to issue their warrant as required by law for a meeting for the choice of State or county officers, representatives to the legislature, or to Congress, or of electors of president and vice president of the United States, they shall each forfeit fifty dollars to their city, town, or plantation, to be recovered in action of debt by the treasurer, or by any citizen thereof when said treasurer is a member of the delinquent board. (Ib., Section 60.)

**Penalty for Neglect of Constable to Summon Voters—Penalty for Wilful Neglect to Be Recovered by Indictment.**

SECTION 30. If any other person required to summon the voters of a city, town, or plantation to assemble at any meeting for the choice of any officers mentioned in the preceding section, neglects to do so, or to make due return of the warrant therefor, he forfeits twenty-five dollars to his city, town, or plantation for each offence, to be recovered as provided in the preceding section; but if he wilfully neglects or refuses to do so, he forfeits not less than fifty, nor more than two hundred dollars, half to the State and half to the prosecutor, to be recovered by indictment. (Ib., Section 61.)

**Penalty for Neglect to Deposit and Post Lists.**

SECTION 31. If the selectmen of a town or assessors of a plantation wilfully neglect to deposit a list of the voters with the town or plantation clerk, and to post such lists as are herein before required, they shall each forfeit not less than fifty, nor more than one hundred dollars; and for each day's neglect after the twentieth of August, and until the State election then next ensuing, they each forfeit thirty dollars. (Ib., Section 62.)

**Penalty for Neglect to Keep Check Lists, or to Reject Illegal Votes.**

SECTION 32. If such selectmen or assessors wilfully neglect or refuse to keep and use a check list, as provided in Section 25, Chapter 4, of the Revised Statutes, or wilfully receive any vote prohibited by Section 29, or fraudulently receive the vote of any person not qualified to be an elector, as provided by the constitution, they shall each forfeit not less than fifty, nor more than one hundred dollars. (Ib., Section 63.) 76 Me. 216.

**Penalties, How Recoverable.**

SECTION 33. The penalties in the two preceding sections may be recovered in an action of debt, in the name and to the use of the town or plantation, where the offence is committed, to be prosecuted to final judgment at the request of any voter therein, by the treasurer, unless he is one of the delinquent officers, and in that case, by one of the constables. (Ib., Section 64.)

**Penalty for Municipal Officers Striking Names from List Without Notice.**

SECTION 34. Any municipal officer who strikes from the list of voters, after it is prepared and posted, the name of any person residing in the town, without the notice and opportunity for hearing provided by law, forfeits not less than twenty, nor more than one hundred dollars, to be recovered in an action on the case by the person whose name was struck out. (Ib., Section 65.)

**Penalty for Altering, Erasing, or Mutilating Names on the Check List, and for Voting in the Name of Another.**

SECTION 35. Whoever wrongfully alters, erases, or mutilates any name on a list of voters, or fraudulently votes in the name of another, or under an assumed name, he shall forfeit the sum named in the preceding section, half to the prosecutor and half to the State, and be imprisoned not more than six months. (Ib., Section 66.)

**Penalty for Neglecting to Supply Lost Return.**

SECTION 36. If any town officer or any such officer chosen *pro tempore*, wilfully neglects or refuses to perform the duties required by Sections 37, 38 and 39 of Chapter 4 of the Revised Statutes, on notice of the loss and destruction of any return therein described, he forfeits not

less than one hundred nor more than five hundred dollars. (Ib., Section 67.)

**Penalty for Making False Certificate.**

SECTION 37. Any such officer, *permanent* or *pro tempore*, who in such case makes a false certificate and makes oath to its truth, shall be punished for perjury, and be disqualified from holding any office under the constitution and laws of the State for ten years. (Ib., Section 68.)

**Penalty for Neglect of Persons to Whom Returns Are Entrusted to Deliver Them.**

SECTION 38. If a person to whom the returns of votes of any city, town or plantation, for governor, senators, or representatives in Congress, are entrusted by the clerk thereof to be forwarded to the office of the secretary of State, wilfully neglects to use all proper means for their delivery within the time required, he shall forfeit not less than one hundred, nor more than five hundred dollars, or be imprisoned in jail not less than two, nor more than six months. (Ib., Section 69.)

**County Attorney to Prosecute for Wilful Negligence in Delivering Returns.**

SECTION 39. Every county attorney who receives from the secretary of State a certificate that the return of the votes of any town in his county, for governor, senators, or representatives in Congress, has not been duly received at the secretary's office, shall immediately ascertain, so far as he can, by the default of what officer or person such neglect happened, and demand of him, if he finds such default wilful, or caused by culpable negligence, the sum thereby forfeited; and if it is not immediately paid he shall prosecute such delinquent. (Ib., Section 70.)

**Liability of Town Officers Limited — But Neglect to Be Deemed Wilful, Unless Contrary Is Shown.**

SECTION 40. In no case, except as in Sections 60 and 61, of Chapter 4 of Revised Statutes, shall any officer of a town incur any punishment, or be liable in damages, by reason of his official acts or neglects, unless they are unreasonable, corrupt or wilfully oppressive; but the neglect to prepare the list of voters, to deposit it in the town clerk's office, to post it as required herein, to call town meetings for elections, to cause returns of votes, or copies thereof, to be delivered into the office of the secretary of State, as required by the constitution and laws, or to make the records by law required, shall be deemed wilful

and unreasonable, unless the contrary is shown. (Ib., Section 71.) 17 Me. 187, 37 Me. 88, 76 Me. 158, 76 Me. 216.

### **Punishment for Misconduct of Voters.**

SECTION 41. At any meeting for the election of any officer, where a list of voters is necessary, whoever wilfully votes before the presiding officer has had an opportunity to find his name on said list, or knowing that it is not on it, or wilfully gives any false answer or statement to the municipal officers of towns, cities or plantations, when they shall be previously preparing such list, or presiding at such meeting, in order that his name or the name of any other person may be entered on such list, or his vote or that of another be received, or casts more than one vote at one balloting, or is disorderly at such meeting, forfeits for each offence not exceeding one hundred, nor less than ten dollars. (Ib., Section 72.)

### **Punishment for Bribery and Corruption at Elections.**

SECTION 42. Whoever by bribery, menace or wilful falsehood, or other corrupt means, directly or indirectly attempts to influence any voter in giving his vote or ballot, or to induce him to withhold it, or disturbs or hinders him in the free exercise of his right of suffrage at any election held under the provisions of the constitution or of this chapter, and whoever receives or offers to receive a bribe for his vote as aforesaid, he shall be fined not more than five hundred dollars, or imprisoned not more than one year, and be ineligible to any office for ten years. (Ib., Section 75.)

### **Punishment for Intentionally Voting Where Not Entitled.**

SECTION 43. Whoever, at an election of state and county, or municipal officers, or of electors of president and vice president, knowingly votes in any city, town or plantation where he has no legal right to vote, shall be imprisoned in the county jail not less than three months, nor more than one year. (R. S., Chapter 4, Section 76.)

### **Betting on Elections Prohibited and Punished.**

SECTION 44. No person shall make a bet or wager upon the result of any election in the State, in money or in any kind of property, real or personal, under penalty of forfeiting the money or property so bet or wagered to the town in which he resides, or if he does not reside in the State, then to the town in which the bet or wager is made, to be recovered in an action on the case. (Ib., Section 77.)

**Mayor or Treasurer to Sue for Penalty.**

SECTION 45. The mayor of the city, or the treasurer of the town or plantation entitled to such forfeiture, shall forthwith proceed to sue for it, and as soon as he has proper evidence of such betting or wagering. (Ib., Section 78.)

**Money Paid on Wager to Be Recovered by Action on the Case.**

SECTION 46. Any party to such bet or wager, who has paid or conveyed to the winning party the money or property so bet or wagered, may recover it, or its value, in an action on the case. (Ib., Section 79.)

**Conveyances by Reason of Wager to Be Void — Value forfeited to Town or City.**

SECTION 47. All conveyances, by deed or otherwise, of any interest in real estate, made by reason of any such bet or wager, are void, the person making them forfeits the full value of the interest so conveyed, to the town entitled to the forfeiture for such betting or wagering, to be recovered as aforesaid. (Ib., Section 80.)

See also Section 31, Chapter 36.

**Islands of City of Portland to Constitute Two Wards, As to Election of Certain Officers. — What Islands Constitute the Different Wards — Proceedings.**

SECTION 48. The several islands within the City of Portland so far constitute two separate wards as to entitle the voters of each of said wards to choose a warden, ward clerk, and one constable, who shall be residents of said islands and of their respective wards. The first of said wards comprises Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the City of Portland, and the ward meetings of said first ward shall be holden on Long Island. The second of said wards comprises the remaining islands within the City of Portland, and the ward meetings of said second ward shall be holden on Peak's Island. The electors of each of said wards may meet as provided in Section 41 of Chapter 4 of the Revised Statutes, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

The warden shall preside impartially at such meetings, receive the votes of all electors present, sort, count and declare them in open meet-

ing and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person against his name, and the offices respectively, and in open ward meeting, and in the presence of the warden, shall make a fair record thereof. A fair copy of this list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one in Portland, within eighteen hours after closing the polls, and the votes thus thrown shall belong to the last mentioned ward. (Ib., Section 44.)

See also R. S., Chapter 4, Section 43 ; Chapter 36, Section 31.

**Mode of Determining Officers Elected—How Notified—  
How to Ascertain Highest Number of Votes—To  
What Officers Applicable—Attested Copy of Return.**

SECTION 49. The governor and council, by the first day of December in each year in which an election is held, shall open and compare the votes so returned, and have the same tabulated, and may receive testimony on oath, to prove that the return from any town does not agree with the record of the vote of such town in the number of votes or the names of the persons voted for, and to prove which of them is correct; and the return, when found to be erroneous, may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said twenty days any person voted for, either personally, and by or with counsel, shall examine said returns in presence of the governor and council, or either of them, or any member of the council. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and they shall be notified thereof by the secretary of State, be sworn, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected. To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes intentionally cast for him, although his name upon the ballot is misspelled or written with only the initial or initials of the Christian name or names; and they may hear testimony upon oath, in relation to such votes, in order to get at the intention of the electors and decide accordingly. The provisions of this section shall be applied in determining the election of all county officers, and, so far as it relates to the



examination and correction of returns, and to ascertaining for whom votes were intentionally cast, it shall be applied in determining the election of representatives to Congress, members of the legislature, and presidential electors. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor. (R. S., Chapter 78, Section 5.)

### **Penalty if Any Person Shall Sell His Vote.**

SECTION 50. Whoever shall offer, or promise, or agree to receive any money or other valuable consideration for giving in his vote at any election held under the provisions of the constitution or of the fourth Chapter of the Revised Statutes of this State, and shall in accordance with such offer, promise, or agreement, give in his vote at such election, shall be fined not more than one hundred dollars, or imprisonment not more than one year, and shall be excluded from the right of suffrage for a term of ten years. (P. L., 1889, Chapter 299.)

### **Copies of This Act Shall Be Furnished Cities, Towns and Plantations and Posted in Voting Precincts.**

SECTION 51. It shall be the duty of the secretary of State to furnish the mayors of cities, the selectmen of towns and plantations with the copies of this law in a printed form suitable to be posted in conspicuous places in the voting precincts of every city, town and plantation, and it shall be the duty of the proper officers of the several municipalities of the State to carry the provisions of this law into effect (P. L., 1889, Chapter 299.)

### **When Assessors and Subordinate Officers Are to Be Elected — Term.**

SECTION 52. The assessors and subordinate officers of cities, when their charters do not otherwise provide, shall be chosen on the second Monday of March, annually, or as soon after as practicable, and hold their offices one year therefrom, and until others are chosen and qualified in their stead. (R. S., Chapter 3, Section 32.) 78 Me. 286.

### **Wardens and Clerks in Cities, How Elected — Term.**

SECTION 53. At the annual election for the choice of mayor and aldermen in cities, the electors, in each ward shall, by written ballot, elect a warden and clerk who shall enter on their duties on the Monday

following their election, and hold their offices one year therefrom, and until others are chosen and qualified in their places. (R. S., Chapter 3, Section 33.)

**Mayor to Have Casting Vote in Choice of Officers — Appointees of Mayor and Aldermen May Be Removed by Mayor.**

SECTION 54. In the election of any city officers by ballot in the board of aldermen or in convention of the aldermen and common council, in which the mayor has a right to give a casting vote, if two or more candidates have each half of the ballots cast, he shall determine and declare which of them is elected, whenever appointments to office are directed or authorized to be made by the mayor and aldermen of cities, they may be made by the mayor with consent of the aldermen, and such officers may be removed by the mayor. (R. S., Chapter 3, Section 34.) 89 Me. 448, 79 Me. 78, 78 Me. 276, 88 Me. 50.

**Votes How Received and Returned — Governor and Council to Count Votes — Secretary to Send for Delinquent Returns — Governor and Council to Examine and Count Votes — Notice to Persons Elected.**

SECTION 55. The votes shall be sorted, counted, declared, and recorded; and the returns of the number of ballots, and of the votes given for each elector, shall be made according to the constitution and laws, to the secretary of State, on or before the second Thursday after such meeting; on the third Thursday after such meeting, the governor and council shall be in session, and shall open, examine, and count the returns of votes so made, and the secretary of State shall forthwith send a messenger to every city and town from which a return has not been received at his office; and the governor and council shall again meet on the Thursday next before the first Wednesday in December, and examine and count all the votes received from the several cities, towns and plantations, and the votes of citizens in the military service lawfully returned into the secretary's office; and they shall forthwith send a certificate of election to each person who has received the greatest number of all the votes returned to said office, not exceeding the number to be chosen. (R. S., Chapter 4, Section 87.)

**Town Officers to Proceed as in Other Meetings.**

SECTION 56. All laws in relation to the duties of city, town and plantation officers, and of voters in the election of governor, senators,

and representatives to the legislature, and to the penalties incurred for their violation, apply, so far as applicable, to meetings held for the election of such electors, and to returns thereof. (R. S., Chapter 4, Section 94.)

**Wards in Cities, Change or Alteration in Limits of, How Made.**

SECTION 57. No change made by the city council, in the limits of any city ward, shall be valid unless it is approved by a majority of the legal registered voters of such city, at the election of city officers, held next after such action of said council and warrants for such ward meetings shall contain an article for that purpose. (P. L., 1893, Chapter 186.)

**Liability of Militia Officers for Military Parades on Election Days.**

SECTION 58. Any officer of the militia who, except in time of war or public danger, parades his men, or exercises any military command on a day of election, as described in Section 160 of Chapter 225 of the Public Laws of 1880, and not thereby excepted, forfeits for each offence not less than ten, nor more than three hundred dollars. (R. S., Chapter 4, Section 73.)

**Penalties in Sections 72, 73, How Recovered.**

SECTION 59. The penalties, provided in the two preceding sections, may be recovered by indictment, half to the State, and half to the prosecutor. (R. S., Chapter 4, Section 74.)

**Electors of President and Vice President to Be Chosen—Meetings, When and How Called—All Names to Be on One Ballot.**

SECTION 60. Whenever the election of president and vice president of the United States is to take place, there shall be chosen from the inhabitants of the State, as many electors of president and vice president as the State is entitled to; and on the Tuesday next after the first Monday in November of such year, the people qualified to vote for senators, shall assemble in town, plantation, city or ward meetings, to be notified, held, and regulated as prescribed by the constitution and laws for the election of such senators; and each voter shall bring in on a single ballot the names of so many of said electors, as he determines to vote for. (R. S., Chapter 4, Section 86.)

**Voting by Machines — Commission to Examine and Approve Voting and Counting Machines — Machines Which Do Not Secure Secrecy Shall Not Be Approved.**

SECTION 61. The secretary of State, the attorney general, and one member of the governor's council, to be designated by the governor, shall, at such times, under such conditions, and after such public notice as they see fit to give, examine voting and counting machines and apparatus; and they shall certify their approval of such machines as, in their judgment, furnish convenient, simple and satisfactory means of voting and of ascertaining the true result thereof with facility and accuracy, special regard being had to preventing and detecting double voting; but no machine shall be approved which does not secure to the voter a degree of secrecy in voting equal to that afforded by the use of the official ballot, as provided by law. No machine except such as is approved by said officers and used in accordance with this Act, shall be used in this State. (P. L., 1901, Chapter 169, Section 1.)

**Cities and Towns Authorized to Purchase and Use Machines.**

SECTION 62. A city or town may, at a legal meeting held not less than ten days before any regular election, determine upon and purchase or accept for trial, and order the use of one or more voting and counting machines for the then ensuing election in said city or town, and thereafter, in case said machine or machines are purchased, at all elections in cities and at State and presidential elections in towns, until otherwise voted at a legal meeting, said machines shall be used for the purpose of voting for the officers to be elected at such elections, and for taking the vote upon constitutional amendments, and all other questions submitted to vote at such elections. (Ib., Section 2.)

**Bond Shall Be Given to Keep Machines in Good Order.**

SECTION 63. When voting and counting machines are approved and purchased the persons of whom such machines are purchased shall give to the secretary of State a suitable bond, with sufficient sureties, conditioned to keep each machine in good working order for five years, at their own expense. (Ib., Section 3.)

**Regulations and Instructions for Use of Voters Shall Be Furnished.**

SECTION 64. The secretary of State shall make regulations for the use of machines approved, and before each State and presidential elec-

tion shall furnish appropriate instructions for the voters in cities and towns where such machines are used like appropriate instructions shall be furnished by clerks of cities before each city election. (Ib., Section 4.)

## REGISTRATION OF VOTERS.

(P. L., 1893, Chapter 304.)

### **Citizenship Defined.**

SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. (84 Me. 58.)

### **Qualification of Voters.**

SECTION 2. Every male citizen who had the right to vote on the fourth day of January, eighteen hundred and ninety-three, together with those not heretofore registered, who were sixty years of age and upwards on said day, and every other male citizen, excepting paupers, persons under guardianship, and Indians not taxed, who, not being prevented by physical disability from so doing, is able to read the Constitution of the State of Maine in the English language, in such manner as to show that he is neither prompted nor reciting from memory, and to write his name, and who is twenty-one years of age or upwards, and shall have his residence established in this State for the term of three months next preceding any national, State, city or town election, shall have the right to vote at every such election in such city or town where his residence is so established, provided, however, that no person whose name is not entered upon the voting list as hereinafter provided, shall be allowed to vote.

### **All Persons to Qualify—Where Person Qualified Shall Vote.**

SECTION 3. Every person whose name has been entered upon the voting list in any city, in accordance with the provisions of this Act, must, if he desires to vote, appear in person at a place provided for registration, and prove that he possesses all the qualifications of a voter. Every person qualified to vote, as hereinbefore provided, shall vote only in the ward of the city and voting precinct thereof, if any, in which he had his residence on the first day of April preceding, or of his becoming an inhabitant after said day.

**Board of Registration — Powers.**

SECTION 4. A board of registration is hereby established in each city of the State having four thousand or more inhabitants, which shall have exclusive power and authority to determine the qualification of voters therein, and exclusive power to make up, correct and revise, the list of voters in each of said cities, and shall perform all the duties, and have, exclusively, all the powers now exercised by boards of registration or by the municipal officers of said cities in making, preparing, revising and correcting the list of voters therein, under Chapter 4 of the Revised Statutes, or any other statutes relating thereto. In all cities having less than four thousand inhabitants the municipal officers shall make such list, exercising the same powers and being governed by the same laws as the municipal officers of towns having five hundred or more registered voters.

**Appointment of Board.**

SECTION 5. Said board shall consist of three members who shall be residents and legal voters of the city where such board is established, one of whom shall be appointed and commissioned by the governor, by and with the consent of his council, for a term of four years from May 1st, 1893, unless previously appointed and commissioned under Chapter 34 of the Public Laws of Maine, approved February 25, 1891, in which case the term of service of such appointee shall be governed by the provisions of said law, and who shall not hold or be eligible to any State, county or city office, however elected or appointed thereto, so long as he continues a member of said board. The other two members of the board shall be chosen one from the political party polling the highest number of votes for governor in this State at the next preceding State election, and one from the political party polling the next highest number of votes for governor of this State at said election; and they shall each hold their office for the term of three years from the first day of May, 1893; and said members shall not hold or be eligible to any State, county or city office, however elected or appointed thereto, so long as they shall continue members of said board. Each shall be nominated by the city committee of his own political party, and upon due notice thereof in writing, the several mayors of said cities shall forthwith appoint such persons, so nominated, members of said board. If either or both of said political parties, after the approval of this Act, refuses or neglects to seasonably nominate a member of such board and

to notify the mayor of such city, said mayor shall thereupon select and appoint a member of said board from the political party so neglecting or refusing to nominate, and said mayor shall so appoint in all such cases of vacancy, whether caused by death, resignation, declination, neglect, or refusing to act after being so appointed, or by election or appointment to any State, county or city office, or however such vacancy may be caused; but in cases of necessity arising from the exigency of the public business, the other two members may proceed therewith as provided by this Act, until such vacancy shall be filled in the manner provided herein. And if any member of said board be absent or disqualified by sickness or otherwise, such mayor shall, upon notice thereof, forthwith fill his place by the appointment of some qualified elector of said city of the same political party as the absent member represents, to act in his absence.

#### **Chairman, Powers and Duties.**

SECTION 6. The person appointed and commissioned by the governor shall preside at all meetings of the board, but shall not vote therein except in case of a tie. He shall give notice of the time and place of the sessions of the board and sign all orders and processes issued by the same. If he is necessarily absent or disqualified by sickness or otherwise during any session of said board, the mayor of said city shall, upon notice thereof, immediately appoint a qualified elector of the city, who shall be of the same political party as said chairman, to act in his absence.

#### **Members Shall Be Sworn.**

SECTION 7. All the members of said board shall be sworn to the faithful and impartial performance of their duties.

#### **Exclusive Powers to Determine Qualifications of Voters.**

SECTION 8. Said board shall have the exclusive power and authority to hear evidence and determine the qualification of voters in the city in which it is established. Said presiding officer, at the request of any member, shall cause any party or witness appearing before the board to be sworn; any member of the board may administer oaths; and the board shall have power to compel the attendance of witnesses, to punish for contempt, and to issue all processes necessary to the performance of the duties of the board.

**Assessors to Make Lists of All Persons Liable to Pay Poll Tax.**

SECTION 9. The assessors of any city, by one or more of their number or by one or more assistant assessors, shall, in the month of April and May in each year, visit every building in their respective cities, and make true lists, containing as near as can be ascertained from any owner or occupant thereof, the name, age, occupation and residence, on the first day of April in the current year, and his occupation and residence on the first day of April in the preceding year, or of his becoming an inhabitant, after said last-named day, of every male person twenty-one years of age and upwards, residing therein, and liable to be assessed for a poll tax; and shall ascertain if any such person has within the year next preceding the first day of April of the current year, moved from said building out of said city and taken up his residence elsewhere, and shall make diligent inquiries and true record concerning all matters required of them in this section. They shall make corrections of any error in the name or place of residence of a person assessed on his personal application therefor, and on proof of the same shall make proper corrections thereof on their books.

**Shall Transmit Lists to Boards of Registration, on or before First Day of July Annually — Street Lists, How Arranged.**

SECTION 10. The assessors shall promptly, on or before the first day of July in each year, transmit to the boards of registration the lists so made or certified copies thereof, noting therein every change of name or residence of persons assessed a poll tax by them, and on or before said first day of July in each year shall prepare street lists containing the name of every person assessed by them, or who has moved out of said city. Such lists shall be arranged by wards or voting precincts, if any. They shall prepare a copy of said street lists and deliver the same to their respective boards of registration on or before the fifteenth day of said July.

**Street Lists Shall Contain the Arrangement and Identification of Residences; also Name, Age and Occupation of All Persons Assessed a Poll Tax — Board to Promptly Transmit to Assessors Notice of Any Error.**

SECTION 11. The assessors shall, in said street lists, arrange all buildings used as residences in the order in which they stand on the



street or other place, by giving their number or other definite description, so that each building can be readily identified, and shall place opposite or under each number, as near as can be ascertained, the name, age, occupation and place of occupation of every person residing in said building on the first day of April of the current year, and assessed a poll tax, with his residence on the first day of April of the preceding year, or on the day of his becoming an inhabitant after said last-named day. And said board of registration shall enter on the voting lists the name of every person assessed a poll tax for the current year, as transmitted to them by the assessors, provided every such name can be identified as having been borne upon the voting lists of the last preceding election. Each board of registration shall promptly transmit to the assessors of its city notice of any error in the name or residence of a person assessed, together with the name and residence of every male citizen who shall prove, for the purposes of registration, that he was a resident of the city on the first day of April of said current year, but whose name does not appear on the list transmitted to said boards by said assessors.

#### **Penalty for Wilfully Making False Entry of Name.**

SECTION 12. An assessor or assistant assessor, who shall knowingly or wilfully enter or cause to be entered on any list of assessed polls, the name of any person as a resident of any building who is not a resident thereof, shall for each such offence be punished by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding one year.

#### **Penalty for Refusing or Neglecting to Give Full and True Information to Assessors.**

SECTION 13. Any inmate of a building liable to be assessed for a poll tax, who shall refuse or neglect to give his true name when inquired thereof by any assessor or assistant assessor, and any owner or occupant of a building who shall refuse or neglect to give full and true information within his knowledge relating to all persons residing in such buildings, when inquired thereof by any assessor or assistant assessor, or who shall knowingly or wilfully give to an assessor or assistant assessor, for the purpose of the assessment on a poll tax, the name of any person as a resident of a building, who is not a resident therein, shall be punished for each offence by fine not exceeding one hundred dollars or by imprisonment not exceeding six months.

**Board Shall Keep Register of Voters — Form.**

SECTION 14. Boards of registration shall keep a general register of voters containing the names and records of all voters entered from year to year on the voting lists, under the provisions of this Act, giving the full Christian name and the surname, or the full name or initial or initials of any other name or names he may have, date of registration, residence on the first day of April of the year of registration or on the day of his becoming an inhabitant after said first day of April, age, place of birth, occupation, place of occupation, how long resident of the city, place of casting his last vote, married or single, residence of wife or family, where naturalized, when naturalized, in what court, arranged under the following heads: When registered, — — —; name, — — —; residence, street and number, — — —; residence April 1, street and number, — — —; place of birth, — — —; age, — — —; date of birth, — — —; occupation, — — —; place of business; — — —; how long a resident of city, — — —; where last vote was cast, — — —; married or single, — — —; residence of wife or family, — — —; where naturalized, — — —; when naturalized, — — —; by what court, — — —; remarks.

**Applicants for Registration Must Be Able to Read in the English Language.**

SECTION 15. Applicants under examination for registration shall be required, unless prevented by physical disability from so doing, or unless he had the right to vote, on the fourth day of January, 1893, to read in the English language other than the title, so much as may be necessary, from an official edition of the constitution, in such manner as to show that he is neither prompted nor reciting from memory, and to write his name in a book kept for the purpose. The name of the applicant, if admitted to registration, shall be announced in a clear, audible and distinct voice before entering his name on the register.

**Applicant, Claiming Exemption from Educational Test, Required to Make Oath to, and Prove Truthfulness of Statements.**

SECTION 16. Any applicant for registration claiming exemption from the educational test herein required, excepting those sixty years of age and upwards at the time said test became operative, must declare under oath he was a legal voter in this State on the fourth day of Jan-

uary, 1893, and if required so to do furnish such other and further reasonable evidence of the truthfulness of his statement as may be satisfactory to said board.

**Requirements Made of Applicant, Who Is a Naturalized Citizen.**

SECTION 17. In making examination of an applicant, who is a naturalized citizen, he shall be required to produce for inspection his papers of naturalization, or a certificate of the same, from the court where he was naturalized, and to make oath that he is the identical person mentioned therein, and said board, if satisfied that he has been legally naturalized, shall make a record or memorandum upon said paper of the date of such inspection, and enter it upon the general register, and also in a book kept for the purpose, the name and location of the court by which said papers were issued, with the date thereof and the date of said inspection, together with the name of said applicant as it is spelled and recorded in said papers, which need not again be produced before said board for examination after they have once been passed upon, and the above minutes thereof recorded on the papers and in the general register.

**Meetings of Board Shall Be Public— Shall Keep Record of Names Added to or Stricken from Lists.**

SECTION 18. All meetings of said board of registration shall be open and public, and shall close on each day at nine o'clock in the afternoon, except as hereinafter provided. A record shall be kept of all names added to or stricken from the voting lists and of all other proceedings of said board. No name shall be added to or stricken from said voting lists except during the open sessions of said boards.

**Shall Prepare Lists of Voters Thirty Days before Next Ensuing Election— Certified Copy Shall Be Furnished City Clerk, and Posted— In Case of Special Election to Fill Vacancy, New Lists Not Required.**

SECTION 19. Said boards of registration shall prepare ward lists of voters of such persons as appear to them to be legally qualified voters, at least thirty days before the next ensuing election. But after the first list of voters has been so prepared under this or any preceding Act relating to the registration of voters, said boards of registration shall so prepare such lists of voters at least thirty days before any election to

be held for any purpose, by placing upon such lists all the names which appear upon the voting lists for the last preceding election, except the names of such persons as have died or ceased to reside therein, or shall appear to said board to have otherwise become disqualified to vote therein since said preceding election, but no new name shall be added during such preparation, nor any other correction or revision of said list except the correction of errors discovered to have been of the board's own making. And a certified copy of all such lists made in accordance with this section shall be furnished to the clerk of such city by said board at least thirty days prior to any such election, and said clerk shall post said certified copies of said lists of voters in their respective wards, at or near the several voting places customarily used as such in said cities, at least twenty-seven days prior to any such election, provided, however, that in case of a failure to elect any municipal officer at any election, or any person elected declines to serve, so that a special election is held to fill the vacancy, the board shall not be required to prepare, or the city clerk to post a new list of voters, and for this purpose said board shall be in session the three secular days next preceding said election, the first two thereof to be devoted to registration of voters, and the last of said secular days to enable the board to verify the correctness of said lists and to complete and close up its records of said session.

**Session of Boards — Names Not Placed on List Unless by Personal Request — Names Shall Not Be Added to or Stricken from Lists on Election Day — How Voter May Be Allowed to Vote Whose Name Has Been Erroneously Omitted from List.**

SECTION 20. Said board of registration shall be in session from nine in the forenoon to one o'clock in the afternoon, and from seven to nine o'clock in the afternoon, in cities of not less than nineteen thousand inhabitants, on each of the twelve secular days next prior to any election on the first nine of said secular days, to receive evidence touching the qualifications of voters therein, and to revise and correct the voting lists, and on the latter three of said secular days to enable the board to verify the correctness of said lists and to complete and close up its records of said sessions. And in all other cities, for the same purpose, and at the same hours on each of the five secular days next prior to any election, the first four thereof to be devoted to registration as above, and the last one of said secular days to enable the board to ver-

ify the correctness of said lists and to complete and close up its records of said session. And on the last of said secular days, at five o'clock in the afternoon, certified copies of said voting lists shall be delivered to the clerks of said cities and receipts taken therefor, except that on the last of said days devoted to registration and on the last of said days devoted to the records as above, the sessions of the board shall close at five o'clock in the afternoon, but no name shall be added to or stricken from said lists after five o'clock in the afternoon of the last of said days devoted to registration as above. Said board shall not place upon said lists during said revision of the same the name of any person who shall not personally appear before said board and request it, and during said time said board shall revise and correct the voting lists. And the wardens of cities shall be governed by said revised and corrected lists, and no names shall be added to or stricken from said lists on the day of election, and no person shall vote at any election whose name is not on said lists. No board of registration shall be answerable for any omission of a name or residence from the voting lists or for any error in the same, unless such name and residence are correctly entered in the general register of voters; but on the day of election said board shall be in session, and shall give to any registered voter whose name has been omitted from the voting list, or in whose name or residence, as placed on said voting list a clerical error has been made, a certificate signed by a majority of the board, giving the corrected name and residence of such person, and directed to the officer presiding over the election; such officer shall, on receipt of such certificate, allow the person therein named to vote, and shall check his name on the certificate, and securely attach the certificate to the voting list. Should this Act be in full force and effect at the municipal elections in said cities for the year 1895, then no further notice shall be given by the clerks of said cities than is now required by law. (1895, Chapter 40.)

**Proceedings When Right of Person to Vote Is Challenged — Voters Shall Notify City Clerk of Changes of Residence.**

SECTION 21. When the right of any person to have his name placed upon such list is challenged by any qualified elector, or when the right of any person to have his name remain upon such list is so challenged, before said board shall add to or strike from said list the name of any such person, they shall issue a notice and summons to said person so challenged, and allow him a reasonable opportunity to be heard. Such

notice and summons shall be served upon such person by an officer selected by the board, by giving him in hand or by leaving at his last and usual place of abode, an attested copy of said notice and summons, at least six hours before the closing of the final session of the board devoted to the revision and correction of the voting lists. Said person and said board may also summon and examine other witnesses before said board concerning his right to vote, and if it appears to said board that such person is not or will not be qualified to vote at such election, they shall cause his name to be erased from said list and not add it thereto. And the list of voters made under this Act shall state the street, and so far as practicable, the number of the street where each voter resides. The residence of voter, as stated upon the list of voters used at the last preceding election, shall be deemed his last and usual place of abode, unless he shall have given notice in writing, over his own signature, or in person, to the city clerk, of a change of his residence, which notice, if given after the first day of April, shall entitle him to have his residence so corrected on the voting list to be used at the next subsequent election, but shall not entitle him to have his registration otherwise changed nor to vote in ward or precinct other than that in which he resided on said first day of April. Said clerk shall keep a record of all notices of change of residence, which record shall at all times be open to public inspection.

#### **Penalty if a Person Registers Falsely.**

SECTION 22. Any person who shall cause his name to be placed upon the list of voters of more than one ward in any city for the same election, or shall cause his name to be placed upon any list of voters in any city in the State, knowing he is not a qualified voter therein for the election for which the said list is made, or who shall falsely personate any voter, or any person, causing any such act or aiding or abetting any person in any manner in either of said acts, shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than one year.

#### **Clerks of Cities Shall Be Custodians of Records — Duties — Penalty for Neglect.**

SECTION 23. The clerks of cities shall be custodians of the records of said boards and of the revised and corrected lists of voters prepared by said boards for use at any election, and shall seasonably transmit to the wardens of cities a true and attested copy of such lists for their use

on election day ; and it shall be the duty of said clerks to keep said lists one year and furnish certified copies thereof on application of any person and payment therefor, within ten days thereafter ; and for failure so to do they shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year. The wardens and ballot clerks shall certify on said voting lists that they are the lists used by them respectively at said elections.

### **Compensation of Members.**

SECTION 24. The president of such board shall receive five dollars for each day that the board shall be in session for the revision and correction of the voting lists and for completing the records thereof, and the other two members of said boards shall receive four dollars per day for such time. They shall also receive a per diem not exceeding five dollars to be fixed by the boards of aldermen and council for such time as they are necessarily employed in making up and preparing such lists of voters, together with reasonable and necessary expenses, including blank books, stationery and the necessary assistance of clerks, all of which shall be paid by the city where such board is established, and each of said cities shall provide a suitable place for holding the sessions of said board, and pay for the services of such officers as said board may employ and have in attendance to preserve order and execute its precepts. All witness fees shall be paid at the established rates of fees before municipal courts.

### **Notices of Sessions of the Board.**

SECTION 25. Notices of the time and place of the sessions of such board to revise and correct said voting lists, shall be given by the president thereof and posted by the clerks of said cities at the same time and place as are the certified copies of the lists of voters ; and the voting lists as revised and corrected by said board of registration shall be used at each election held in said cities in the several wards thereof.

### **Any Elector May Challenge Right of Another to Vote.**

SECTION 26. Any qualified elector in said cities may challenge the right of any person to vote in any ward of said cities at any election held therein and shall be given the opportunity by the presiding officer thereof, to make such challenge, and such presiding officer shall note the fact of such challenge upon the voting list used in such ward.

**Notices, How Posted.**

SECTION 27. All notices of said boards, assessors, city clerks or of any other public officer relating to registration of voters or to elections, shall be posted at or as near as may be to the places designated for receiving votes on election days.

**Lists of Deceased Voters Shall Be Furnished Board.**

SECTION 28. The clerk or register of deaths of each city shall, at least thirty-three days before each election, and on the first day designated by said boards for the revision and correction of the voting lists, and also on the last of said days set apart for such revision and correction, transmit to said boards, a certified list of the names of all male persons over twenty-one years of age, deceased since the preceding election, or the date of the preceding list, with the ward, street and number where such person resided at the date of death.

**Public Officers Shall Attend Meetings of Board.**

SECTION 29. The board or officer in charge of the police force of any city shall, upon request so to do, by said boards detail a sufficient number of police officers to attend any meeting held by said boards and preserve order and enforce the orders of said boards.

**Penalty, if Any Member Shall Refuse or Neglect to Enforce Educational Test.**

SECTION 30. Any member of said boards who shall refuse or wilfully neglect to require any applicant for registration to whom the same is applicable, to read a portion satisfactorily to a majority of said board, other than the title, from some official edition of the constitution, in such manner to show that he is neither prompted nor reciting from memory, or to require such applicant to write his name in a book kept for the purpose, unless he is prevented from physical disability from so doing, or who knowingly shall prevent or seek to prevent the registration of any legal voter, or who knowingly shall register the name of any person not qualified to vote or who shall be guilty of any fraud or corrupt conduct in the execution of the duties of his office, shall for each offence be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding two years.

**Penalty, if City Officer Refuses or Neglects to Perform Duty.**

SECTION 31. Any city officer who shall wilfully neglect or refuse to perform any duty required of him by law in matters relating to the



registration of voters, shall for each offence be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding two years.

### **Penalty for Making False Statements, Etc.**

SECTION 32. Any person who knowingly or wilfully shall make a false affidavit, or take a false oath, or sign a false certificate regarding the qualification of any person for the assessment of the tax or for registration, or shall injure or deface any list of voters or any notice relating to the registration of voters in any city, or shall prevent or interfere with, or aid or abet any person in preventing or interfering with any public officer in the discharge of his duty relating to the registration of voters, shall for each offence be punished by a fine not exceeding three hundred dollars or by imprisonment in the county jail not exceeding one year.

### **Penalty for False Registration, Etc.**

SECTION 33. Any person who shall cause his name to be registered knowing that he is not a qualified voter in the place where so registered, or shall falsely represent or attempt to represent himself as another person before any board of registration, or shall give a false answer to said board concerning any matter relating to the registration of a voter, or the right of any person to vote, or shall aid or abet any other person in doing either of the acts above mentioned, shall for each offence be punished by a fine not exceeding three hundred dollars or by imprisonment in the county jail not exceeding one year.

### **Penalty for Obstructing Proceedings.**

SECTION 34. Any person who shall refuse to obey the lawful orders or directions of any board of registration, or shall interrupt or obstruct the proceedings at any meeting for registration, shall be arrested, detained in custody until a warrant can be procured and shall for each offence be punished by a fine not exceeding fifty dollars or imprisonment not more than sixty days.

### **Repealing Act.**

SECTION 35. Section 47, Chapter 4 of the Revised Statutes, and Chapter 34, Public Laws of Maine, 1891, and all other Acts and parts of Acts inconsistent herewith are hereby repealed.

**Registered Voter Who Moves into Another Ward Need Not  
Appear before Board of Registration for Change to  
New Ward.**

SECTION 36. Nothing in this Act shall be so construed as to require any voter, whose name is already upon any ward list and who afterwards moves from said ward to any other ward in said city to appear personally before said board during the revision of the list in order to transfer his name from one ward list to another. (P. L., 1895, Chapter 113.)

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**AN ACT TO PROVIDE FOR THE PRINTING AND DIS-  
TRIBUTING BALLOTS AT THE PUBLIC EXPENSE  
AND TO REGULATE VOTING FOR  
STATE AND CITY ELECTIONS.**

Chapter 102, Public Laws of 1891, as amended by Chapter 267,  
Public Laws of 1893.

**Ballots Furnished at Public Expense — Delivery of Ballots.**

SECTION 1. All ballots cast in elections for national, State, district and county officers in cities, towns and plantations after the first day of September in the year 1892, and all ballots cast in municipal elections in cities after that date, shall be printed and distributed at public expense as hereinafter provided. The printing of the ballots and cards of instructions to voters shall in municipal elections in cities be paid for by the several cities respectively, and in all other elections the printing of the ballots and cards of instruction, and the delivery of them to the several cities and towns, shall be paid for by the State. The distribution of the ballots to the voters shall be paid for by the cities, towns and plantations respectively.

The term "State election," as used in this Act, shall apply to any election held for the choice of a national, State, district or county officer, whether for a full term or for the filling of a vacancy, and the term "State officer" shall apply to any person to be chosen by the qualified voters at such an election. The term "city election" shall apply to any municipal election so held in a city, and the term "city officer"

shall apply to any person to be chosen by the qualified voters at such an election. (86 Me. 42.)

### **Who May Nominate Candidates for Public Office.**

SECTION 2. Any convention of delegates, and any caucus or meeting of qualified voters, as hereinafter defined, and individual voters, to the number and in the manner hereinafter specified, may nominate candidates for public office, whose names shall be placed upon the ballots to be furnished as herein provided.

### **Certificates of Nomination to Be Filed and Sworn to.**

SECTION 3. Any convention of delegates representing a political party which, at the gubernatorial election next preceding, polled at least one per cent. of the entire vote cast in the State for governor, or in the electoral district or division thereof for which the nomination is made, and any caucus held by such a political party in any such electoral district or division, may for the State, or for the district or division for which the convention or caucus is held, as the case may be, by causing a certificate of nomination to be duly filed, make one such nomination for each office therein to be filled at the election. Every such certificate of nomination shall state such facts as may be required as above for its acceptance, and as are required in Section 5 of this Act, shall be signed by the presiding officer or by the secretary of the convention or caucus, and shall be sworn by the party signing to be true, and a certificate of the oath shall be annexed to or made on the certificate of nomination.

### **Nomination Papers to Be Signed and Certified to by Clerk.**

SECTION 4. Nominations of candidates for any offices to be filled by the voters of the State at large may be made by nomination papers signed in the aggregate for each candidate by not less than one thousand qualified voters of the State. Nominations of candidates for electoral districts or divisions of the State, or for municipal or ward officers, may be made by nomination papers signed in the aggregate for each candidate by qualified voters of such district or division not less in number than one for every one hundred persons who voted at the next preceding gubernatorial election in such district or division, but in no case less than twenty-five. In the case of a first election to be held in a plantation, town or ward newly established, the number of twenty-five

shall be sufficient for the nomination of a candidate who is to be voted for only in such plantation, town or ward; and in the case of a first election in a district or division newly established, other than a plantation, town or ward, the number of twenty-five shall be sufficient. Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to one nomination for each office to be filled, and no more. The nomination papers shall before being filed be respectively submitted to the clerks of the cities, towns or plantations in which the signers purport to be qualified voters, and each clerk to whom the same is submitted shall forthwith certify thereon what number of the signatures are names of qualified voters both in the city, town or plantation for which he is a clerk and in the district or division for which the nomination is made; one of the signers to each such separate paper shall swear to the truth thereof, and the certificate of such oath shall be annexed to or made upon the nomination papers.

#### **What Certificate Shall Contain.**

SECTION 5. All certificates of nomination and nomination papers shall, besides containing the names of candidates, specify as to each, first, the office for which he is nominated; second, the party or political principle which he represents, expressed in not more than three words; third, his place of residence. In the case of electors of president and vice president of the United States, the names of the candidates for president and vice president may be added to the party or political appellation.

#### **Certain Certificates Shall Be Filed with Secretary of State — For Municipal Officers, Certificates to Be Filed with City Clerk.**

SECTION 6. Certificates of nomination and nomination papers for the nomination of candidates for State or county officers, representatives to the legislature, shall be filed with the secretary of State on or before the tenth day of August of each year in which such election is held. Such certificates and papers for the nomination of candidates for the offices of mayor and all other offices in cities shall be filed with the city clerks of the respective cities at least seven days, exclusive of Sundays, previous to the day of such election. With nomination papers and certificates shall also be filed the consent in writing of the person nominated.

**Certificates in Apparent Conformity to Act, to Be Deemed Valid.**

SECTION 7. The certificates of nomination and nomination papers being filed, and being in apparent conformity with the provisions of this Act, shall be deemed to be valid; and if not in apparent conformity, they may be seasonably amended under oath.

**Vacancies, How Supplied.**

SECTION 8. In case a candidate who has been duly nominated under the provisions of this Act shall die before the day of election, or shall withdraw in writing, the vacancy may be supplied by the political party or other persons making the original nomination, in the manner herein provided for such nomination; or, if the time is insufficient therefor, then the vacancy may be supplied, if the nomination was made by a convention or caucus in such manner as the convention or caucus has previously provided for the purpose, or in case of no such previous provision, then by a regularly elected general or executive committee representing the political party or persons holding such convention or caucus. The certificates of nomination made for supplying such vacancy shall state, in addition to the other facts required by this Act, the name of the original nominee, the facts causing the vacancy, and the measures taken in accordance with the above requirements for filling the vacancy; said certificate shall be accompanied by the withdrawal, if any, and shall be signed and sworn to by the presiding officer or secretary of the convention or caucus, or by the chairman or secretary of the duly authorized committee, as the case may be. The name so supplied for the vacancy shall, if the ballots have not been printed for the office already, be placed on the ballots, instead of the original nomination; or, if the ballots have been printed, new ballots containing the new nomination shall, whenever practicable, be furnished, or slips containing the new nomination shall be printed under the direction of the secretary of State, which may be pasted in proper place upon the ballots and thereafter shall become part and parcel of said ballots, as if originally printed thereon.

**Nomination Papers to Be Open to Public Inspection.**

SECTION 9. All certificates of nomination and nomination papers, when filed, shall forthwith be opened and kept open under proper regulations to public inspection, and the secretary of State and the several city clerks shall preserve the same in their respective offices not less than one year.

**What Ballots Shall Contain and How Printed — Size of Ballot, How Folded and Marked.**

SECTION 10. Every general ballot, or ballot intended for the use of all voters, which shall be printed in accordance with the provisions of this Act, shall contain the names and residences, ward residences in city election, of all candidates whose nominations for any office specified in the ballot have been duly made and not withdrawn in accordance herewith, and the office for which they have been severally nominated; and shall contain no other names except that in case of electors of president and vice president of the United States, the names of the candidates for president and vice president may be added to the party or political designation. The names of candidates nominated by any party shall be grouped together upon the ballot. Above each group shall be placed the name of the political party by which the candidates comprising such group were placed in nomination, or by the political designation as described in the certificate of nomination, or nomination papers under a square. If only one person be nominated by any party, or under any political designation, his name with the office for which he is a candidate shall be printed by itself under the name of such party or political designation. A blank space shall be left after the names of the candidates for each different office in which the voter may insert the name of any person for whom he desires to vote as candidate for such office. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people, such question shall be printed upon the ballot after the list of candidates. The ballots shall be so printed as to leave a blank space, above such amendment or question, so as to give to each voter a clear opportunity to designate by a cross mark (X) therein his answers to the questions submitted, and on the ballot may be printed such words as will aid the voter to do this as "yes," "no," and the like.

The ballot shall be not less than four inches in width and not less than six inches in length. Before distribution the ballots shall be so folded in marked creases that their width and length when folded shall be uniform. On the back and outside, when folded, shall be printed "Official Ballot for," followed by the designation of the polling place for which the ballot is prepared, the date of the election, and a facsimile of the signature of the secretary of State or city clerk who has caused the ballot to be printed. Except as otherwise herein provided, ballots shall be printed in accordance with the existing provisions of law.

**Record to Be Kept of Number Furnished Each Polling Place.**

SECTION 11. All ballots when printed shall be folded as hereinbefore provided, and fastened together in convenient numbers in packages, books or blocks, in such manner that each ballot may be detached and removed separately. A record of the number of ballots printed and furnished to each polling place shall be kept and preserved by the secretary of State and the several city clerks for the term of one year.

**Number of Ballots to Be Provided.**

SECTION 12. There shall be provided for each voting place at which an election is to be held, two sets of such general ballots, each of not less than sixty for every fifty and fraction of fifty votes cast in said voting place at the next preceding election, city, State or national, corresponding to the election for which said ballots are to be provided.

**Instructions for Guidance of Voters — Specimen Ballots to Be Furnished.**

SECTION 13. The secretary of State, in case of a State election, and the several city clerks, in case of city elections, shall prepare full instructions for the guidance of voters at such elections, as to obtaining ballots, as to the manner of marking them, and the method of gaining assistance, and as to obtaining new ballots in place of those accidentally spoiled, and they shall respectively cause the same, together with copies of Sections 29, 30, 31 and 32 of this Act to be printed in large, clear type, on separate cards, to be called cards of instructions; and they shall respectively furnish the same and the ballots for use in each such election. They shall also cause to be printed on tinted paper and without the facsimile endorsements, ten or more copies of the form of the ballot provided for each voting place at each election therein, which shall be called specimen ballots, and shall be furnished with the other ballots provided for each such voting place.

**Printed List of Nominations Shall Be Transmitted to Clerks of Cities Seven Days before Election - List to Be Published.**

SECTION 14. The secretary of State shall, seven days at least previous to the day of any election of State or county officers, transmit to the clerks in each city, town and plantation in which such election is to be held, printed lists containing the names, residences, and party or

political appellation of all candidates nominated as herein provided for such election, and to be voted for at each polling place in each such city, town and plantation respectively, substantially in the form of the general ballot to be so used therein; and the clerks shall immediately cause the lists for each plantation, town or ward, as the case may be, to be conspicuously posted in one or more public places in such plantation, town or ward. The secretary of State shall likewise cause to be published prior to the day of any such election, in at least two newspapers, if there be so many, printed in each county, representing, so far as practicable, the political parties which, at the preceding election, cast the largest and next largest number of votes, a list of all the nominations made as herein provided, and to be voted for in such county, so far as may be, in the form in which they shall appear upon the general ballots. New nominations made or authorized shall be transmitted, posted and published promptly, and so far as practicable in the manner herein directed and communications transmitted as herein directed by the secretary of State to any clerk, shall be duplicated on the succeeding day.

**List to Be Posted Four Days before Election — Clerk to Publish Same in Two Newspapers Prior to Election.**

SECTION 15. The city clerk of each city shall four days at least prior to the day of any city election therein, cause to be conspicuously posted in one or more public places in each ward of such city a printed list containing the names, residences and party or political appellations of all candidates nominated, as herein provided, and to be voted for in such ward, substantially in the form of the general ballot to be so used therein; and he shall likewise cause to be published, prior to the day of such election, in at least two newspapers, if there be so many, printed in such city, representing the political parties which cast at the preceding election the largest and next largest number of votes, a list of all the nominations made, as herein provided, and to be voted for in such city, so far as may be, in the form in which they shall appear upon the general ballots.

**Two Sets of Ballots to Be Sent by Secretary of State to Clerks.**

SECTION 16. The secretary of State shall send, separately and at different times or by different methods, the two sets of general and special ballots, together with the specimen ballots, and cards of instruction printed by him, as herein provided, to the several city, town and



plantation clerks, so as to be received by them, one set seventy-two hours at least, previous to the day of election, and the other set forty-eight hours at least previous thereto. The same shall be sent in sealed packages, with marks on the outside clearly designating the polling place for which they are intended, and the number of ballots of each kind enclosed; and the respective city, town and plantation clerks shall, on delivery to them of such packages, return receipts therefor to the secretary. The secretary shall keep a record of the time when, and the manner in which the several packages are sent, and shall preserve for the period of one year the receipts of the city, town and plantation clerks.

#### **Clerk to Provide Two Sets of Ballots.**

SECTION 17. The two sets of ballots, together with the specimen ballots and cards of instruction printed by the city clerks as herein provided, shall be packed by them in separate sealed packages, with marks on the outside clearly designating the polling places for which they are intended, and the number of ballots of each kind enclosed.

#### **Set of Ballots to Be Sent to Presiding Election Officers on Day of Election—Instructions and Specimen Ballots to Be Posted in Each Compartment.**

SECTION 18. The several city, town and plantation clerks, or municipal officers, shall send to the presiding election officer or officers of such voting place before the opening of the polls on the day of election one set of ballots so prepared, sealed and marked for such voting place, and a receipt of such delivery shall be returned to them from the presiding election officer or officers present, which receipt, with a record of the number of ballots sent, shall be kept in the clerk's office for one year. At the opening of the polls in each polling place the seals of the packages shall be publicly broken, and the packages shall be opened by the presiding election officer or officers, and the packages, books or blocks of ballots shall be delivered to the ballot clerks hereinafter provided for. The cards of instruction shall be immediately posted at or in each voting shelf or compartment provided in accordance with this Act for the marking of the ballots, and not less than three such cards and not less than five specimen ballots shall be immediately posted in or about the polling rooms outside the guard rails. The second set of ballots shall be retained by the respective city, town and plantation clerks until they are called for or needed for the purposes of voting, and, upon the

requisition in writing of the presiding election officer or officers of any voting place, the second set of ballots shall be furnished to such voting place in the manner above provided as to the first set.

**In Case of Loss of Ballots Other Ballots to Be Furnished.**

SECTION 19. In case the ballots to be furnished to any city, town or plantation or voting place therein, in accordance with the provisions of this Act, shall fail for any reason to be duly delivered, or in case after delivery they shall be destroyed, lost or stolen, it shall be the duty of the clerk or municipal officers of such city, town or plantation to cause other ballots to be prepared substantially in the form of the ballots so wanting and to be furnished; and upon receipt of such other ballots from him or them, accompanied by a statement under oath that the same have been so prepared and furnished by him, and that the original ballots have so failed to be received or have been so destroyed, lost or stolen, the election officers shall cause the ballots so substituted to be used in lieu of the ballots wanting as above.

**Polling Places to Be Provided — Warden and Ward Clerk to Be Appointed for Each Polling Place — Check Lists.**

SECTION 20. The municipal officers, sixty days before any election, may divide towns of more than four thousand inhabitants and wards of cities, into convenient polling districts, which shall contain not less than three hundred voters in each, defining the limits thereof by a writing under their hands to be filed with and recorded by the city or town clerks; and attested copies thereof shall forthwith be posted by said clerks in not less than six public and conspicuous places in said town or ward, and the same shall be published in one or more of the newspapers, if any, printed in said city or town, thirty days at least before such election. They shall also, ten days before any such election, appoint a warden and ward clerk for each polling place other than the one in which the warden duly elected for such ward shall preside, who shall perform the same duties at elections as presiding officers and clerks of towns and wards now perform. Any vacancy occurring after appointment may be filled by the voters of said polling district as similar vacancies are now filled. All such officers shall be sworn. The board of registration of voters for any city in which a ward has been so divided, and municipal officers of any town which has been so divided, shall in the manner now provided for by law, prepare check lists of the

qualified voters for each of said polling districts, in lieu of the check lists now provided by law for the entire town or ward, to be used as hereinafter provided, and all provisions of law applicable to check lists for towns and wards shall apply to check lists for such polling districts.

**Clerks and Ballot Clerks to Be Appointed by Municipal Officers — Duties and Compensation.**

SECTION 21. The municipal officers of cities, towns and plantations voting in accordance with the provisions of this Act, shall biennially, in the month of May, appoint clerks for each polling place; and such municipal officers shall appoint as such clerks such persons as shall be recommended for such appointment by the several political party committees of the several cities, towns or plantations, representing the two political parties which, at the gubernatorial election next preceding such appointment, cast the greatest number of votes. For each polling place in cities and towns of more than one thousand inhabitants, four clerks, and for each polling place in plantations, and for each island ward of the City of Portland and for the island district of the Town of Cumberland, and for every town of less than one thousand inhabitants, two clerks shall be appointed. Said clerks shall equally represent each of the political parties which cast the largest number of votes in the State election next preceding their appointment. Each of said clerks shall be sworn to the faithful performance of his duties, and shall hold office for two years from the date of his appointment, and until a successor is appointed and qualified, or he vacates the office. Vacancies occurring in the office of election or ballot clerks shall be forthwith filled by the municipal officers in manner hereinbefore provided. Such election clerks shall attend at the times and places designated for meetings in their respective wards, towns or plantations for the election of any national, state, county, city or ward officers, and for the determination of any question submitted to the qualified voters of any city by lawful authority, shall be present at and witness the counting by the presiding election officer or officers of all votes cast in such meetings, and shall receive such reasonable compensation for each day's actual service as the municipal officers of their respective cities, towns and plantations may determine. No person shall be eligible to the position of election clerk in any ward, town or plantation where he is a candidate to be voted for. Two of the clerks in each polling place, one from each political party, shall be detailed by the municipal officers to act as ballot clerks. The two ballot clerks thus detailed and appointed in

each polling place shall have the charge of the ballots therein and shall furnish them to the voters in the manner hereinafter set forth. A duplicate list of the qualified voters in each ward, town or plantation shall be prepared for the use of the ballot clerks, and all the provisions of law relative to the preparation, furnishing and preservation of check lists shall apply to such duplicate lists.

### **Voting Shelves, Construction of.**

SECTION 22. The municipal officers in each city, town or plantation, as aforesaid, shall cause the polling places therein to be suitably provided with a sufficient number of voting shelves or compartments, at or in which voters may conveniently mark their ballots, so that in the marking thereof they shall be screened from the observation of others, and a guard rail shall be so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot boxes, and of such voting shelves or compartments. The arrangement shall be such that neither the ballot boxes nor the voting shelves or compartments shall be hidden from the view of persons just outside the guard rail. The number of such voting shelves or compartments shall not be less than one for every one hundred voters qualified to vote at such polling place, and not less than three in any town, and not less than five in any ward of a city. No person other than the election officers, election clerks and voters admitted as hereinafter provided, shall be permitted within said rail, except by authority of the presiding election officer or officers for the purpose of keeping order and enforcing the law. Each voting shelf or compartment shall be kept provided with proper supplies and conveniences for marking the ballots.

### **Voter to Give Name to Ballot Clerk.**

SECTION 23. Any person desiring to vote shall give his name, and, if requested so to do, his residence, to one of the ballot clerks, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found upon the check list by the ballot clerk having charge thereof, he shall likewise repeat the said name, and the voter shall be allowed to enter the space enclosed by the guard rail, as above provided. The ballot clerk shall give him one, and only one ballot, and his name shall be immediately checked on said list.

Besides the election officers, and election clerks, not more than two voters in excess of the number of voting shelves or compartments provided, shall be allowed in said enclosed space at one time.

**How Voter Shall Prepare Ballot — Manner of Voting.**

SECTION 24. On receipt of his ballot the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments so provided and shall prepare his ballot by marking in the appropriate margin or place, a cross (X) as follows: He may place such mark within the square above the name of the party group or ticket, in which case he shall be deemed to have voted for all the persons named in the group under such party or designation. And if the voter shall desire to vote for any person or persons, whose name or names are not printed as candidates on the party group or ticket, he may erase any name or names which are printed on the group or party ticket, and under the name or names so erased he may fill in the name or names of the candidates of his choice. Or if the voter does not desire to vote for a person or persons whose name or names are printed upon the party group or ticket, he may erase such name or names with the effect that the ballot shall not be counted for the candidate or candidates whose names are so erased. In case of a question submitted to the vote of the people he shall place such mark in the appropriate margin above the answer which he desires to give. Before leaving the voting shelf or compartment, the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, and he shall keep the same so folded until he has voted. He shall vote in the manner now provided by law before leaving the enclosed space, and shall deposit his ballot in the box with the official endorsement uppermost. He shall mark and deposit his ballot without undue delay and shall quit said enclosed space as soon as he has voted. No such voter shall be allowed to occupy a voting shelf or compartment already occupied by another, nor to remain within said enclosed space more than ten minutes, nor to occupy a voting shelf or compartment for more than five minutes in case all of such shelves or compartments are in use, and other voters are waiting to occupy the same. No voter, not an election officer nor an election clerk, whose name has been checked on the list of the ballot clerks, shall be allowed to reënter said enclosed space during said election. It shall be the duty of the presiding election officer or officers, for the time being, to secure the observance of the provisions of this section.

**If Voter Spoils Ballot, New Ballots to Be Furnished Him —  
Canceled and Unused Ballots to Be Preserved — Ballots  
to Be Kept Six Months — Penalty.**

SECTION 25. No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately canceled, and together with those not distributed to the voters, shall be preserved, and with the check lists used, which shall be certified by the ballot clerks, to be such, shall be secured, sealed and sent to the several city, town and plantation clerks, and by them be preserved for six months, as a public record. The ballots shall be sorted and counted in open town or ward meeting in such manner as to afford the electors ample opportunity to observe the sorting and counting; and when the ballots have been sorted and counted and the result declared and recorded, all the ballots shall, in open meeting, be sealed in a package which said package together with the check lists sealed in the same manner as the ballots, shall forthwith be returned to the city, town or plantation clerk, to be preserved by him as a public record, for six months, and any warden, ballot clerk, city or town clerk or other person who shall abstract from or in any manner tamper with said packages, or who shall in any manner abstract from or tamper with the unused ballots, shall be punished by a fine not less than two hundred dollars nor more than one thousand dollars, or by imprisonment for not less than ninety days or more than two years.

**Clerks to Assist Certain Voters.**

SECTION 26. Any voter who shall declare to the presiding election officer or officers that he cannot mark his ballot by reason of physical disability, or from inability to read the same, shall receive the assistance in the marking of his ballot, of two of the election clerks; such clerks shall not both represent one and the same political party, and they shall certify on the outside of such ballot that the same was marked by them, or by the voter with their assistance, and thereafter shall give no information concerning the same. The presiding election officer or officers may require every voter, who applies for such assistance, to make oath to his inability to mark his ballot, before such clerks shall be directed to assist as aforesaid, and such officer or officers are hereby qualified to administer such oath, and no clerk shall assist or offer to assist any voter in marking his ballot until directed so to do by the presiding election officer or officers.

**Voter's Choice to Be Determined, if Possible.**

SECTION 27. If a voter marks more names for any one office than there are persons to be elected to such office, or if for any reason it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office. No ballot without the official indorsement shall, except as herein otherwise provided, be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this Act shall be counted. Ballots not counted shall be marked defective on the back thereof, and shall be preserved, as required by Section 25.

**Time of Opening and Closing Polls.**

SECTION 28. Meetings for the election of national, State, county and municipal officers may be opened as early as six o'clock in the forenoon, and in no case shall the polls be kept open later than five o'clock in the afternoon, and notice of the time of opening and closing shall be given in the warrant calling the meeting.

**Penalty for Showing Ballot, Etc.**

SECTION 29. A voter who shall, except as herein otherwise provided, allow his ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote, or who shall make a false statement as to his inability to mark his ballot, or any person who shall interfere, or attempt to interfere with any voter when inside said enclosed space, or when marking his ballot, or who shall endeavor to induce any voter before voting to show how he marks or has marked his ballot, shall be punished by fine of not less than five dollars, nor more than one hundred dollars; and election officers shall report any person so doing to a police officer or constable, whose duty it shall be to see that the offender is duly brought before the proper court.

**Penalty for Destroying Nomination Lists, Cards of Instruction, or Specimen Ballots Posted for Instruction.**

SECTION 30. Any person who shall, prior to an election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this Act, or who, during an election, shall wilfully deface, tear down, remove or destroy any card of instruction or specimen ballot printed or posted for the instruction of voters, or who shall, during an election, wilfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, or shall wilfully

hinder the voting of others, shall be punished by fine of not less than five dollars nor more than one hundred dollars.

**Penalty for Destroying Nomination Paper, Etc. — Penalty for Falsely Filing Nomination Paper, Etc.**

SECTION 31. Any person who shall falsely make or wilfully deface or destroy any certificate of nomination or nomination paper, or any part thereof or any letter of withdrawal, or file any certificate of nomination or nomination paper, or letter of withdrawal, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination or nomination paper, or any part thereof which has been duly filed, or forge or falsely make the official indorsement on any ballot, or wilfully destroy or deface any ballot, or wilfully delay the delivery of any ballots, or shall take or remove any ballot outside of the enclosure provided for voting before the close of the polls, shall be punished by fine not exceeding one thousand dollars or by imprisonment in the jail not more than one year, or by both such fine and imprisonment.

**Penalty for Neglect of Public Officer.**

SECTION 32. Any public officer upon whom a duty is imposed by this Act, who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder the objects of this Act, shall be punished by a fine of not less than five, nor more than one thousand dollars, or by imprisonment in jail for not more than one year, or by both such fine and imprisonment.

**Penalty for Clerks Rendering Assistance in Certain Cases.**

SECTION 33. Any election or ballot clerk who shall assist, or offer to assist any voter, before such clerk shall have been directed by the presiding officer or officers to so assist such voter, shall be punished by a fine of not less than twenty-five, nor more than one hundred dollars, or by imprisonment not exceeding sixty days for each offence, and thereafter shall be disqualified from holding the office of election or ballot clerk.

Provisions in the charter of any city for the election of two persons to assist the warden in receiving, sorting and counting the ballots, are not affected by the provisions of this Act or the Act of which it is amendatory; but persons so elected shall be deemed election clerks for that purpose; they shall equally represent the two political parties which, at the State election next preceding, cast the greatest number of votes.



## DECISIONS.

WILLIAM F. CURRAN VS. WILLIAM Z. CLAYTON.

(86 Me. 42.)

ELECTIONS. AUSTRALIAN BALLOT LAW. DEFECTIVE BALLOTS. DECISION OF  
BOARD OF ALDERMEN, WHEN REVIEWABLE.

(R. S., Chapter 4; Stats. 1880, Chapter 193; 1891, Chapter 102; 1893, Chapter 260.)

The elective franchise must be exercised under such regulations and restrictions as the legislature may deem reasonably necessary to maintain order at elections, prevent intimidation, bribery and fraud, preserve the purity of the ballot box, and thus secure a genuine expression of public sentiment.

Statutes designed to secure complete and inviolable secrecy of ballots cast at public elections should be construed, under established rules, with reference to the mischief to be remedied and the object to be accomplished; and interpreted, if practicable, so as to promote and not destroy the purpose of their enactments.

The enactment of the Statute of 1891, Chapter 102, popularly known as the "Australian Ballot Law," was designed to inaugurate an important departure from the mode of voting which had existed in this State prior to its passage.

Its distinguishing feature is its careful provision for a secret ballot.

Under this Statute, giving the voter a clear opportunity to designate by a cross mark (X) his choice of candidates, the place and method of marking the ballot being regulated and defined in the Statute, it was held that ballots defectively and illegally marked as follows should be rejected:—

- (1) Where the cross (X) was placed above the name of the candidate, and not in the appropriate place at the right of it;
- (2) Where there was a cross (X) above and also one beneath the candidate's name, but none at the right of it;
- (3) Where the cross (X) was placed at the left of the name of the candidate;

(4) Where there was a cross (X) under the party name at the head of the ticket and one at the left of the defendant's name on another party ticket;

(5) Where there was no cross (X) whatever, but a short, straight line drawn across the square at the right of the party name at the head of the ticket;

(6) Where there was a cross (X) in the square at the right of the name of each candidate except that for mayor, on one party ticket, and a cross (X) in the square at the right of the party name on another ticket.

The board of aldermen in the City of Bangor reëxamined the ballots cast for alderman in Ward 7, counted for defendant the six ballots above described, and declaring that there was no choice, ordered a new election to be held. The defendant securing a majority of the ballots then cast claimed to hold the office by virtue of the second election; that the subject matter was within the exclusive jurisdiction of the board of aldermen; and that the ballots alleged to be defective and irregular were properly counted for him. The plaintiff thereupon began his proceeding in equity under Revised Statutes, Chapter 4, and Statute of 1893, Chapter 260, amendatory thereto, asking the court to take jurisdiction of the matter, and require the defendant to surrender the office to the plaintiff. *Held*, That the decision of the board of aldermen is subject to review by this court; that the city charter is to be construed as affording a cumulative or primary tribunal only, and not an exclusive one; that it does not preclude a contestant from resorting to the court for a revision of a question of law; and that the decision of the board of aldermen involved the determination of a question of law and not an issue of fact or a matter of discretion.

WATERMAN vs. CUNNINGHAM.

ELECTIONS. BALLOTS. STICKERS.

(Statutes, 1891, Chapter 102, Section 10.)

The Statute of this State regulating voting, requires the name of the person desiring to be voted for, and not printed on the ballot, to be inserted in the blank space left for that purpose. A sticker placed over one of the printed names is not a compliance with the Statute.

## CITY CHARTER.

**Warden and Clerks, Duties of — Ballot Clerks.**

SECTION 1. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a warden and clerk, who shall hold their offices for one year, from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the ward. The warden shall preside at all ward meetings, with the powers of the moderators of town meetings. If at any meeting the warden shall not be present, or shall refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden *pro tempore* shall be chosen. If both are absent, or refuse to act, a warden and clerk *pro tempore* shall be chosen. The clerk shall record all proceedings and certify the votes given, and deliver over to his successor in office, all such records and journals, together with other documents and papers held by him in said capacity. (Section 11.)

**Ballot Clerks to Be Chosen by Voters.**

SECTION 2. The voters of each ward may choose two persons to assist the warden in receiving, sorting and counting the votes. (Section 11.)

**Ward Meetings to Be Warned by Board of Mayor and Aldermen.**

SECTION 3. All regular ward meetings shall be notified and called by warrant from the mayor and aldermen, in the manner prescribed by the laws of this State for notifying and calling town meetings by the selectmen of the several towns. (Section 11.)

**City Officers, How Elected.**

SECTION 4. The mayor shall be elected by the inhabitants of the city voting in their respective wards. One alderman, three common councilmen, a warden and clerk, and two constables shall be elected by each ward, being residents in the ward where elected. All said officers

shall be elected by ballot by a majority of the votes given; and shall hold their offices one year from the second Monday in December, and until others shall be elected and qualified in their places. (Section 12.)

#### **Ward Clerks to Deliver Certificates of Election.**

SECTION 5. The ward clerk, within twenty-four hours after such election, shall deliver to the persons elected, certificates of their election, and shall forthwith deliver to the city clerk, a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. (Section 13.)

#### **If No Choice of Officers, Meeting to Be Adjourned.**

SECTION 6. If the choice of any such officers is not effected on that day, the meeting shall be adjourned to another day, (not more than two days thereafter,) to complete such election, and may so adjourn from time to time, until the election is complete. (Ib.)

#### **Board of Aldermen to Canvass Election Returns.**

SECTION 7. The board of aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor by a majority of the votes given in all the wards, to be notified in writing of his election. But if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said board shall issue their warrants for another election, and in case the citizens shall fail on the second ballot to elect a mayor, the city council in convention shall, from the four highest candidates voted for at the second election and returned, elect a mayor for the ensuing year; and in case of a vacancy in the office of the mayor by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election in the manner hereinbefore provided for the choice of said officer. (Section 13.)

#### **Island Wards to Choose Certain Officers.**

SECTION 8. The several islands within the City of Portland are so far constituted two separate wards as to entitle the legal voters of each of said wards to choose a warden, ward clerk and one constable, who shall be residents on said islands, and of their respective wards. The first of said wards shall comprise Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the City of Portland, and the ward meetings of said

first ward shall be held on Long Island. The second of said wards shall comprise the remaining islands within the City of Portland, and the ward meetings of said second ward shall be held on Peak's Island. (P. L., 1879, Chapter 97.)

#### **Duties of Wardens and Clerks of Island Wards.**

SECTION 9. The warden shall preside at all meetings, receive the votes of all qualified electors present whose names are borne on the lists; shall sort, count and declare the votes in open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person, and a fair record thereof, in presence of the warden and in open meeting, and a copy of the list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one, within eighteen hours after the close of the polls, to become a part of the record of said ward; and all votes thus thrown shall be deemed as thrown in and belonging to ward number one. (Section 15.)

#### **Meetings of Voters on Island Ward to Stand Adjourned Two Days.**

SECTION 10. All meetings of the voters of said island wards, for choice of municipal officers shall, after the business of the meeting is transacted, stand adjourned for two days, to determine whether an election has been effected; and adjournments may be had, not exceeding two days at any one time, until the election has been effected. (Ib.)

#### **Pro Tempore Officers of Island Wards to Be Elected in Certain Cases.**

SECTION 11. If the warden or clerk of said island wards shall be absent at any election, a warden or clerk may be chosen *pro tempore*. Or in case of failure or omission to elect a warden or clerk, said officers may be chosen at any legal meeting duly called in said ward. (Ib.)

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### **ORDINANCES.**

(See Section 11 of City Charter.)

#### **Form of Warrants of Ward Meetings.**

SECTION 1. The form of warrants for calling meetings of the citizens of the several wards shall be as follows, viz.:

## STATE OF MAINE.

CITY OF PORTLAND, SS.

To ———, one of the constables of the said City of Portland,

GREETING :

In the name of the State of Maine you are hereby required to warn and notify the inhabitants of Ward No. —, in said City of Portland, qualified according to law, to meet at the ward room in said ward, on the first Monday of December next, being the — day of said month, at — o'clock in the forenoon, then and there to give in their votes for ———.

The polls on such day of election to remain open until five o'clock in the afternoon, when they shall be closed.

Hereof fail not, and have you there then this warrant, with your doings thereon.

Given under our hands and seals, at the City of Portland, this — day of ———, A. D. 19—.

———, Mayor.

} Aldermen of  
} the City of Portland.

## CITY OF PORTLAND.

By virtue of the within warrant, I have warned and notified the inhabitants of —, Ward — to meet at the time and place, and for the purposes therein mentioned, by posting an attested copy of the within warrant at or near the entrance of the ward room of said Ward —, being a public and conspicuous place within said ward, on the — day of ———, A. D. 19—, being at least seven days before the time appointed for said meeting.

ATTEST:

———,

Constable for the City of Portland.

**To Be Served by Constables and Returned.**

SECTION 2. All warrants for calling meetings of the citizens of the several wards, which shall be issued by the mayor and aldermen, shall be served by any constable of the city, who shall make his return on the warrant, stating the manner of notice and the time it was given, and

return the same to the wardens of the several wards in said city, on or before the time of meeting of the citizens of said wards, therein specified.

### **Form of Warrant for General Meetings.**

SECTION 3. The form of warrants for calling meetings of the inhabitants of said City of Portland, shall be as follows, to wit:

#### **STATE OF MAINE.**

[L. S.]

CITY OF PORTLAND, SS.

To ———, one of the constables of the City of Portland,

**GREETING:**

Upon the requisition of sixty qualified voters of said city, you are hereby required, in the name of the State of Maine, to warn and notify the inhabitants of said City of Portland qualified to vote in city affairs, to meet at ——— in said city, on ———, the ——— day of ———, at — o'clock in the ———noon, then and there to act upon the following articles, to wit: ———.

Hereof fail not, and have you there then this warrant, with your doings thereon.

Given under our hands and seals, at the City of Portland, this ——— day of ———, A. D. 19—.

———, Mayor.

} Aldermen of  
} the City of Portland.

### **To Be Served by Constables and Returned.**

SECTION 4. All warrants which shall be issued by the mayor and aldermen, for calling meetings of the inhabitants of the city, shall be served by any constable of the city, and returned to the mayor and aldermen on or before the meeting of the citizens therein specified.

### **Time of Opening and Closing the Polls Shall Be Fixed by the Mayor and Aldermen, and Inserted in the Warrant.**

SECTION 5. It shall be the duty of the mayor and aldermen to fix the time when the poll shall close, as well as the time for opening thereof, in the election of all officers except ward officers, and insert the same in any warrant and notification to the inhabitants, of such election.

## CHAPTER 37.

# ELECTRICAL APPLIANCES.

### Statutes.

#### **Posts and Lines for Transmission of Electricity—Electric Companies Shall Be Subject to Duties and Liabilities Prescribed in This Act.**

SECTION 1. Every company incorporated for the transmission of intelligence, heat, light, or power by electricity, and all persons and associations engaged in such business, shall be subject to the duties, restrictions and liabilities prescribed in this Act. (P. L., 1885, Chapter 378, as amended by P. L., 1891, Chapter 8, and P. L., 1895, Chapter 103.) 82 Me. 471, 86 Me. 232.

#### **Shall Not Construct Lines Along Highways without Written Permit of Municipal Officers—Public Notice Shall Be Given of Application for Permit—Manner of Notice—When Personal Notice Shall Be Served—If Notice Is Defective, New Notice Shall Be Given—Lines May Be Changed by Order of Municipal Officers.**

SECTION 2. No such company, person or association shall construct lines upon and along the highways and public roads of any city or town, without first obtaining a written permit, signed by the mayor and aldermen, or selectmen, specifying where the posts may be located, the kind of posts, and the height at which and the places where the wires may run. Before granting such permit, fourteen days' public notice thereof shall be given, and residents and owners of property upon the highway to be affected thereby, shall have full opportunity to show cause why such permit should not be granted. Such public notice shall be given by publication in some newspaper printed in such city or town, if any, the last publication to be fourteen days before said hearing; if no newspaper is printed therein, then by posting the same in some public and conspicuous place therein fourteen days before said hearing; when the application for such permit is filed, the mayor or chairman of the selectmen shall indorse thereon what personal notice, if any, shall be



given by such company, persons or associations, to the residents and owners of property to be affected thereby. At the hearing, such company, persons or associations, before proceeding, shall first prove that such order of notice has been complied with and public notice given as hereinbefore required, and the adjudication of the mayor and aldermen, or selectmen, that such personal and public notice has been given shall be final and conclusive. If from any cause the notice given appears to have been defective, the municipal officers may order new notice, not exceeding seven days, and adjourn said hearing to a time named in said new order of notice. After the erection of the lines, having first given such company, persons, associations or their agents opportunity to be heard, the municipal officers may direct any alteration in the location or erection of such posts and in the height of the wires. Such permits, specifications and decisions shall be recorded in the records of the city or town. (Ib., Section 2.)

**Telegraph, Telephone, Light, Heat and Power Corporations  
Authorized to Place Wires, Etc., under Surface of  
Streets — How Permits May Be Obtained.**

SECTION 3. Telegraph, telephone, electric light, heat or power companies chartered by special act of the legislature or organized under the general laws of the State, and all such companies, wherever chartered or organized, engaged in the business of transmitting intelligence, heat, light or power by electricity, are hereby authorized in any city or town to place their wires and cables and all conduits and other structures for conducting and maintaining such wires and cables under the surface of those streets and highways in which such companies are empowered to obtain locations for their polls and wires; subject, however, to the written permit therefor of the municipal officers of such city or town, and subject also to such rules and regulations as to location and construction as such municipal officers may designate in their permit. Proceedings for obtaining permit to place wires and cables under the surface of streets and highways may be had in accordance with the provisions of Chapter 378, of the Public Laws of 1885, relating to the location of posts and wires in public ways. (P. L., 1901, Chapter 168.)

**Land and Other Damages, How Appraised — Awards and  
Costs, How Recovered.**

SECTION 4. An owner of land near to or adjoining a highway or road along which lines shall hereafter be constructed, erected or altered

in location or construction by any company, person or association, if said owner's property is any way injuriously affected or lessened in value, whether by occupation of the ground or air, or otherwise by such construction, alteration or location of any such line, whether such owner is also the owner of the fee in such way or not, may within six months after such construction, alteration or location apply to the mayor and aldermen, or selectmen to assess and appraise the damage. Before entering upon the service they shall severally be sworn to faithfully and impartially perform the duties required of them by this Act. They shall, on view, make a just appraisement in writing of the loss or damage, if any, to the applicant, sign duplicates thereof, and on demand deliver one copy to the applicant, and the other to the company or its agent. If damages are assessed, the company shall pay the same, with the costs of the appraisers. If the appraisers award that the applicant has suffered no damage, he shall pay the costs of the appraisers. The awards and costs may be recovered in an action of debt, if not paid in thirty days after written demand therefor served upon the company or any of its agents; the supreme judicial court for the county shall have jurisdiction thereof, and full costs shall be allowed. Before entering upon the discharge of their duties under this section such municipal officers may require the applicant to advance to them their fees for one day and from day to day thereafter. (P. L., 1885, Chapter 378, Section 3.)

**Wires May Be Cut and Poles Removed to Allow Removal of Buildings or Repair of Streets, Etc.**

SECTION 5. Whoever desires to cut, disconnect or remove the wires or poles of a telephone or electric light company in order to move a building, alter, repair or improve a street, bridge or way, or for any other necessary purpose, shall leave a written statement of the time when and the place where such removal is desired, at its office if it has any in that town, and if it has not, he shall send it by mail to its nearest office three days before such time; upon the expiration of which time, if such removal is not made by the company, such person may make the removal, and recover the cost thereof in an action of debt. (Ib., Section 4.)

**Fee for Services.**

SECTION 6. The mayor and aldermen and selectmen shall each receive, for services performed under this Act, two dollars a day. (Ib., Section 5.)

**Party Aggrieved by Assessment of Damages May Appeal —  
How Determined — Costs, How Paid.**

SECTION 7. Either party aggrieved by the assessment of damages, may, within twenty days after the award, file in the office of the clerk of courts for the county, a copy of the award, with reasons of appeal, a copy of which papers, attested by the clerk, shall be served on the adverse party at least fourteen days before the term of the supreme judicial court for that county, to be holden next after the expiration of said fourteen days. After entry, the matter shall be determined by a jury, or by the court by agreement of parties, in the same manner as other civil causes. If the company is the appellant, and the award is not decreased, the costs shall be paid by the company; if the applicant appeals and the award is not increased the costs shall be paid by the applicant. (Ib., Section 6.)

**Enjoyment of Right to Attach Wire, Etc., to Any Building,  
Limited.**

SECTION 8. No enjoyment by any company, person or association, for any length of time, of the privilege of having or maintaining posts, wires, or apparatus, in, upon, over, or attached to any building or land of other persons shall give a legal right to the continued use of such enjoyment, or raise any presumption of a grant thereof. (Ib., Section 7.)

**Liability of Company for Personal and Other Injury —  
Liability of City or Town.**

SECTION 9. When an injury is done to a person or to property by the posts, wires, or other apparatus of any company, person or association, mentioned in Section 1, such company, person or association shall be responsible in damages to the person injured. If the same be erected on a highway or town way, the city or town shall not, by reason of anything contained in this Act or done thereunder be discharged from its liability, but all damages and costs recovered against a city or town on account of such injury shall be reimbursed by the company, persons or associations owning such posts, wires or apparatus. (Ib., Section 8.)

**Telephone Connections, How Regulated.**

SECTION 10. Every corporation operating a telephone line in this State shall, upon the application of any other corporation operating a telephone line, allow to the corporation first making such application, connection between such lines upon the same rates as charged for the same

distances upon the lines of the corporations so connecting, and with the same charges for use of telephone exchanges as established for the patrons of such corporations. Every corporation authorized by its charter to grant telephone privileges, including the leasing of instruments and other appliances, shall grant such privileges upon equal and uniform terms and conditions. (Ib., Section 9.)

**Penalty for Affixing Wire to Building, Etc., without Consent of Owner.**

SECTION 11. Every company, association or person maintaining or operating a telephone or other electrical line, or any one who in any manner affixes or causes to be affixed to the buildings or building of another any structure, fixture, wire or other apparatus, or enters upon the property of another for the purpose of affixing the same, in either case without the consent of the owner or lawful agent of the owner of such property, shall on complaint of such owner or his tenant be punished by fine not exceeding one hundred dollars. (Ib., Section 12.)

**May Construct Line Along Any Railroad, by Written Permit — If Parties Cannot Agree, Either May Apply to Railroad Commissioners — Expenses, How Paid.**

SECTION 12. Such company, person or association may construct a line upon or along any railroad by the written permit of the person or corporation operating such railroad, but in case such company cannot agree with the parties operating such railroad as to constructing lines along the same or as to the manner in which lines may be constructed upon, along or across the same, either party may apply to the railroad commissioners, who, after notice to those interested, shall hear and determine the matter and make their award in relation thereto, which shall be binding upon the parties. The expenses of the hearing shall be paid by the company, person or association seeking to construct lines on the railroad, except that if the railroad commissioners shall find that parties operating the railroad have unreasonably refused their consent, said parties shall pay the expenses. (Ib., Section 13.)

**Corporations for Generating Gas or Electricity, How Organized.**

SECTION 13. Corporations for the purpose of making, generating, selling, distributing and supplying gas or electricity, or both, for lighting, heating, manufacturing or mechanical purposes, in any city or

town, or two or more adjoining cities or towns, within this State, or for either or any of such purposes, may be organized under the provisions of Sections 16, 17, 18, 19 and 20, of Chapter 48, of the Revised Statutes of this State, and Acts amendatory thereof and additional thereto, and all provisions of said chapter and Acts are hereby made applicable to such corporations. (P. L., 1895, Chapter 102, Section 1.)

**Certificate Shall State City Where Corporation Intends to Do Business.**

SECTION 14. The certificate provided by said Section 18 to be prepared and filed in the secretary of State's office, shall specify, in addition to the statements required by said section, the city or town, or the adjoining cities or towns, within which said corporation proposes to make, generate, sell, distribute or supply gas or electricity, or both, for the purposes named in Section 1 of this Act, and no corporation shall be authorized to make, generate, sell, distribute or supply gas or electricity, in any city or town not specified in said certificate. (Ib., Section 2.)

**May Construct Lines Along Any Highway—Shall Not Take Lines Already Located, without Authority of Legislature or Consent of Owners.**

SECTION 15. Every such corporation shall have authority to lay its pipes and wires and construct and maintain its lines in, upon, along, over, across and under the roads and streets in any city or town in which it is authorized to supply gas or electricity, or both, subject, however, to the conditions and restrictions hereinafter provided. But no corporation organized hereunder shall have authority, except by special act of the legislature, to take, appropriate or use the location, pipes, lines or other property of any other corporation, person or firm, doing, or authorized to do, a similar business, without the consent of such other corporation, person or firm. (Ib., Section 5.)

**Before Laying Pipes, Etc., Shall First Obtain Permit of Municipal Officers—Permit Shall Not Be Granted until a Hearing Is Had.**

SECTION 16. No such corporation shall lay its pipes or bury its wires in any road or street, or dig up or open the ground in any road or street, until it shall have obtained a permit in writing from the municipal officers of the city or town in which road or street is located,

which permit shall be signed by such municipal officers, and shall specify the roads and streets and the location therein in which pipes or wires shall be laid; but such permit shall not affect the right of any party or parties to recover damages for any injury to persons or property by the doings of any such corporation. Upon application to them for such permit, the municipal officers to whom it is presented shall appoint a time and place of hearing thereon, and cause said corporation to give public notice thereof by publication in some newspaper published or printed in said city or town, if any, at least fourteen days before said hearing; if no newspaper is published or printed in said town or city, then by posting such notice in two or more public and conspicuous places therein, at least fourteen days before said hearing. At such hearing any resident and property owner in said city or town, and all other parties interested, may appear, and shall be given an opportunity to be heard. (Ib., Section 6.)

#### **Shall Not Obstruct Public Travel.**

SECTION 17. Said corporation shall so dig up and open such roads and streets in such a manner as to discommode the public travel as little as possible, and shall put all such highways, roads and streets which it shall dig into and open, into as good repair as they were before they were dug into and opened; and on failure so to do within a reasonable time such corporation shall be decreed guilty of nuisance. (Ib., Section 7.)

#### **May Maintain Lines under Certain Restrictions.**

SECTION 18. Every such corporation authorized to make, generate, distribute and supply electricity for the purposes named in this Act shall be authorized to construct and maintain its poles, lines, fixtures and appliances upon, along, over and across the roads and streets of any city or town in which it is authorized to do business, upon the conditions and under the restrictions provided herein and by Chapter 378 of the Public Laws of 1885, and all Acts additional thereto and amendatory thereof, and all the provisions of said Chapter and Acts not inconsistent herewith are hereby made applicable to such corporations; provided, however, that the same shall not be so constructed as to incommode the use of such roads and streets for public travel; and provided further, that no such corporation shall injure, cut down or destroy any fruit trees, or any tree or shrub standing and growing for the purposes of shade or ornament. (Ib., Section 8.)

**Liability for Damages.**

SECTION 19. Every corporation incorporated under the provisions of this Act shall be liable in all cases to repay any city or town all sums of money that said city or town may be obliged to pay on any judgment recovered against it for damages occasioned by any obstruction, digging up or displacement of any way or street by said corporation, together with council fees and expenses necessarily incurred in defending said town in actions therefor; provided, however, that said corporation shall have notice of the commencement of any and all suits for such damage, and such corporation shall have the right to defend any such action at its own expense. (Ib., Section 10.)

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**ORDINANCES.****City Electrician — Election — Compensation.**

SECTION 1. There shall be elected annually, at the time fixed for the election of other subordinate city officers, or as soon thereafter as convenient, one person skilled in the science of electricity, to be styled "city electrician," who shall hold office until a successor is duly elected and qualified. He shall be removable at the pleasure of the city council and shall receive such compensation for his services as the said council may determine.

**Duties.**

SECTION 2. The city electrician shall have the care of all the electrical appliances belonging to the city, and under the direction of the committee on electrical appliances shall superintend all additions and improvements thereto, and shall make all necessary repairs thereon in order that the same may at all times be in efficient working order. He shall make no outlay nor contract exceeding twenty-five dollars without the order of said committee.

**Duties, Continued — Report to City Council.**

SECTION 3. It shall be his duty to thoroughly inform himself in regard to the location of all telegraph, telephone or other electrical lines within the city, and so far as it may affect life or property, the situation and condition of all electrical appliances whatever, promptly reporting to the mayor everything he considers hazardous, also any violation of statute laws or city ordinances.

He shall keep an inventory of all property in his department and its estimated value, also an account of his transactions, and report the same annually to the city council on the first Monday in March, or oftener, if required.

### **Committee on Electrical Appliances.**

SECTION 4. There shall be appointed annually a joint committee on electrical appliances, to consist of the mayor, one alderman, and three members of the common council.

### **City Electrician — Powers.**

SECTION 5. The city electrician shall supervise every wire or cable over or under streets or buildings; he shall notify the person or corporation owning or operating any such wire or cable whenever its attachments, insulation, supports or appliances are unsuitable or unsafe, and shall have removed, at the expense of the owner thereof, every wire abandoned for future use; and he shall see that all statutes, ordinances and regulations relating to his duties, and to the location, erection, maintenance, insulation and removal of wires or cables, over or under streets or buildings, are strictly complied with and enforced.

### **City Electrician to Keep Map of Locations.**

SECTION 6. Said city electrician shall make and keep in his office a map showing the location of all wires over, in, or laid under the streets and other public places, and over buildings of the said city, and a record of the names of the owner or owners of each and all said wires.

### **Examine Application for Erection of Wires, Etc., and Report to Mayor and Aldermen.**

SECTION 7. Said city electrician shall, when so required by the mayor or aldermen, examine every application for the erection of any wire or poles or posts for the support thereof, in or over any street or public place, or for conduits under any street or public place for such wire, and shall report to them any facts which in his opinion bear upon the question of granting or refusing to grant such application.

### **Shall Direct Parties to Shut Off Electrical Current — Chief Engineer of Fire Department to Have Current Cut Off — Penalty.**

SECTION 8. Said city electrician shall have authority, whenever in his opinion the public safety requires it, to direct any corporation or



persons using or operating any such wires, to shut off the electric current therefrom for such period of time as said city electrician may deem necessary; and the chief engineer of fire department shall have authority, in case of fire, to have current cut off such wires as he knows or believes are dangerous to life or property. Any such corporation or person who shall refuse to shut off such current in accordance with the order of said electrician or chief engineer, shall be liable to a penalty of fifty dollars for each and every hour during which the direction of said electrician or chief engineer shall be disregarded.

**Suitable Wires to Be Used — To Be Insulated — To Guard against Fire.**

SECTION 9. Every person or corporation owning or operating a line of wires over streets or buildings in the city, shall use only wires that are suitable and strong; shall suitably and safely attach them to strong and sufficient supports, and insulate them at all points of attachment; shall remove all wires abandoned for future use; shall suitably insulate every wire where it enters a building, and if such wire is other than a wire designed to carry an electric light or power current, shall attach to it at suitable and convenient points in the circuit, in order to prevent danger from fire, and near the place of entering the building an appliance calculated to prevent at all times a current of electricity of such intensity or volume as to be capable of injuring electrical instruments or causing fire from entering the building by means of such wire.

**All Work to Be Done to Satisfaction of City Electrician.**

SECTION 10. Said city electrician shall have access at all reasonable times, to all wires, appliances and apparatus in the interior of the public buildings, or on private premises, which are intended for carrying an electric light or power current, and no person shall arrange, affix or change any such wires or apparatus without giving the city electrician reasonable opportunity to inspect such wires and their arrangements and fixtures before the same are covered or enclosed, and no such wires shall be placed in any building in process of construction until all gas, steam, sewer, water and furnace pipe have been placed in proper position. Such wires in the interior of buildings, or on private premises, shall not be connected with an outside circuit which crosses or runs along, over or under any street or way of the city, without written permission therefor having been first obtained from the city electrician.

**Wires to Be Repaired, Etc., within Forty-Eight Hours after Notice.**

SECTION 11. Every person or corporation owning, leasing or operating wires as above described, shall, within forty-eight hours after notice served by the city electrician, make such substitution or repairs of posts, supports, cross-arms or stays, for the safe carrying of such wires as may be required by said city electrician.

**No Wires to Be Left on Sidewalk or Street, or Hanging.**

SECTION 12. No such person or corporation shall permit pieces of wire to be left on the surface of any street or sidewalk, nor permit unused coils or loose ends of wire to remain attached to any cross-arm or posts more than twenty-four hours.

**Electric Companies to Furnish Lists of Locations, Etc.**

SECTION 13. Upon the request of the city electrician the persons or corporations operating electric or other wires, upon, over or under any street or building, shall within fifteen days thereafter furnish accurate lists of the location of their poles, the number of cross-arms thereto affixed, and the number of wires thereto attached, the location of subways, manholes, and other information in relation to their method, together with the locations where service is rendered, viz.: telegraphic, telephonic, electric lighting, specifying either arc or incandescent, or for electric power.

**Electric Companies to Furnish Statements, Relative Strength of Wire, Etc.**

SECTION 14. The city electrician, upon application to any person or corporation operating electric or other wires within the city, shall be furnished with such information as to the kind, size and tested strength of supporting or service wires, the average volts charged and used, together with such other information as may by him be considered necessary to the faithful and effectual discharge of his duties under the ordinances of the city.

**Polls to Be Marked with Owner's Name — "Cut Out" to Be Provided.**

SECTION 15. All poles carrying wires shall be designated by stencil with names of companies or persons owning or using the same.

Whenever an electric light current is carried into a building by conductors from an exterior source, a suitable shut off or "cut out" must be provided at a point as near as possible to the entrance of such building.

**Supports to Be Maintained by Owners.**

SECTION 16. All wires when placed above the surface of the ground shall be suspended from poles or buildings or other supports, to be maintained by the persons or corporations using such wires.

**No Wire to Be Attached to Building without Permission.**

SECTION 17. No wire shall be suspended from or attached to any building for the purpose of conducting electricity, unless by special permission of the owner of each building.

**Safeguards to Be Used — Wires to Be Placed under Ground When Required.**

SECTION 18. All persons and corporations exercising any privileges under this ordinance shall adopt and use in their business any devices and safeguards which may be from time to time discovered or invented, for the protection of persons and property against injury growing out of the use of electric currents, for the purpose aforesaid, if required so to do by the board of mayor and aldermen.

Whenever the laying of electric wires beneath the ground shall be deemed by the city council practicable for the purposes aforesaid, all persons and corporations maintaining or using wires above ground, shall, when required by the city council, take down and remove at their own expense, all their poles used for the support of such wires, and place their mains and conducting wires beneath the ground, and all authority to erect and maintain poles for the purposes aforesaid shall then cease.

**All Poles and Wires Subject to This Ordinance.**

SECTION 19. The erection, by any persons or corporation, of any wire, pole or other fixture, for the purposes aforesaid, in the City of Portland, after the passage of this ordinance, shall be held to be an agreement on the part of such person or corporation, to all the requirements, rules and conditions contained in this ordinance.

**City to Be Held Harmless.**

SECTION 20. Every person or corporation erecting, maintaining or using such poles or wires, shall, in case of loss or damage, indemnify and save harmless the City of Portland, its officers, agents and servants, from and against all lawful claims and demands, for injuries to persons or property occasioned by the existence of such poles or wires, or the transmission of electric currents by means thereof, and the said city, its agents and servants exercising the rights and powers given herein, shall not be held liable by such person or corporation on account thereof, by reason of any injury or damage caused thereby.

**Penalty.**

SECTION 21. All persons violating the provisions of this ordinance shall be subject to a penalty of not exceeding fifty dollars for each offence, to be recovered by complaint to the use of the city.

**Consent of City Electrician Necessary before Stringing Wires.**

SECTION 22. No person or corporation shall attach or maintain any wires or other erections for the purpose of supporting any line of wires, for telegraphic, telephonic or electric light or power circuits to any public building without the consent of the city electrician.

**Conditions.**

SECTION 23. All wires used for the above purposes shall be subject to the following conditions: that no permanent rights shall be obtained in the streets or public grounds by reason of such use, and that such wires shall be subject to change or location or removal when deemed necessary for the public interests or order of said board; and in case of fire, if necessary, such wires may be cut or removed by order of city electrician or chief engineer without claims upon the city therefor.

**Penalty.**

SECTION 24. All persons violating the provisions of these ordinances, shall be subject to a penalty of not exceeding fifty dollars for each offence, to be recovered by complaint to the use of said city.

**Penalty for Tampering with Electrical Appliances.**

SECTION 25. No person, except the city electrician and his assistants, shall tamper with the city fire alarm, police signal or fire department system, or cut any wire, or break or interfere with any circuit

thereof under penalty of fifty dollars for each offence. Any member of the city fire department who removes a tapper from any electric tapper circuit shall, in addition to the foregoing penalty, be discharged from the fire department and shall not be reëlected or reappointed thereto in in any capacity.

**Release Keys to Fire Alarm Boxes—Penalty.**

SECTION 26. No person, except the chief engineer and assistant engineers of the fire department, the city electrician and his assistants and the committee on fire department, shall have a release key to the fire alarm boxes of the City of Portland, and no person, excepting the above named and the city marshal and deputy marshals and members of the police force of the City of Portland, shall have a key to the outer door of said fire alarm boxes. All persons violating the provisions of this section shall be subject to a penalty of not exceeding fifty dollars for each offence, to be recovered by complaint to the use of the city.

**Poles of Electric Companies to Be Kept Painted.**

SECTION 27. All poles now erected, or hereafter to be erected, within the city, to which any wire may be attached or suspended for the purpose of conducting electricity, shall be kept painted in some uniform style, satisfactory to the board of mayor and aldermen.

## **CHAPTER 38.**

# **ENGINES.**

### **Statutes.**

#### **Stationary, Gasoline or Steam Engine Not to Be Used without License from Town Officers.**

SECTION 1. No stationary, gasoline or steam engine shall be erected in a town until the municipal officers have granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provision as to height of chimney or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license shall be granted on written application, recorded in the town records, and a certified copy of it furnished, without charge, to the applicant. (R. S., Chapter 210, Section 17.) 65 Me. 426, 435, 80 Me. 488.

#### **Notice and Hearing on Application — Appeal May Be Taken to Supreme Judicial Court — Proceedings.**

SECTION 2. When application is made for such license, said officers shall assign a time and place for its consideration, and give at least fourteen days' public notice thereof, in such manner as they think proper, at the expense of the applicant. From the decision of the selectmen of towns, in granting or refusing such license, any person aggrieved by such decision may appeal therefrom to the next term of the Supreme Judicial Court held in said county, which court may appoint a committee of three disinterested persons, as is provided in relation to appeals from location of highways. Said committee shall be sworn and give fourteen days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license, the Supreme Judicial Court in equity may enjoin the erection of such building and steam engine. (R. S., Chapter 17, Section 18.) 80 Me. 488.

**Unlicensed Engine.**

SECTION 3. Any such engine erected without a license shall be deemed a common nuisance without other proof than its use. (R. S., Chapter 17, Section 19.) 65 Me. 435.

**Officers May Remove It.**

SECTION 4. Said officers have the same authority to abate and remove a steam engine, erected without license, as is given to the health committee or health officer in Chapter 14. (R. S., Chapter 17, Section 20.) 65 Me. 435.

**Steam Boilers to Be Provided with Fusible Safety Plugs — Exceptions.**

SECTION 5. No person or corporation shall manufacture, sell, use, or cause to be used except as hereinafter provided, any steam boiler in this State unless it is provided with a fusible safety plug, made of lead for boilers carrying steam pressure above fifty pounds per square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch, and said safety plug shall be not less than one-half inch in diameter, and shall be placed in the roof of the fire box when a fire box is used, and in all cases shall be placed in the part of the boiler fully exposed to the action of the fire, and as near the surface line of the water as good judgment shall dictate, excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section. (R. S., Chapter 17, Section 21.)

## **CHAPTER 39.**

# **EXPLOSIVES AND FIREARMS.**

### **Statutes.**

#### **Municipal Officers to Make Regulations Respecting Gunpowder, Explosive Oils and Other Dangerous Substances—Penalty for Violation—Seizure.**

SECTION 1. In every town, the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine and all other explosive and illuminating substances which such officers adjudge dangerous to the lives or safety of citizens; and no person shall keep any such article in any quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty nor more than one hundred dollars for each offence; all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure may be libeled according to law. (R. S., Chapter 26, Section 20.)

#### **When Buildings for Manufacture of Powder Are Nuisances.**

SECTION 2. If any person manufactures gunpowder, or mixes or grinds the composition therefor, in any building within eighty rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly. (R. S., Chapter 17, Section 8.)

#### **Penalty for Selling, Giving Away or Using Fireworks without License.**

SECTION 3. Whoever sells, offers for sale or gives away crackers, squibs, rockets, or other fireworks, or fires or throws the same in a any town, without the license of the municipal officers thereof, shall be fined not exceeding ten dollars, to the use of such town. (R. S., Chapter 128, Section 11.)



**Toy Pistols, Sale of, Prohibited — Penalty and Liability.**

SECTION 4. Whoever has in his possession a toy pistol for the explosion of percussion caps or blank cartridges, with intent to sell it, or sells or offers to sell or give it away, shall be fined not less than five nor more than one hundred dollars, and shall be liable for all damages resulting from such selling or giving away, to be recovered in an action on the case. (R. S., Chapter 128, Section 12.)

**Not Lawful for Any Person to Sell Gunpowder within the City of Portland without License — License to Be in Force One Year — May Be Renewed — Proviso.**

SECTION 5. It shall not be lawful for any person or persons to sell any gunpowder, which may at the time be within the City of Portland, in any quantity, by wholesale or retail, without having first obtained from the mayor and aldermen of said city, a license to sell gunpowder; and every license shall be written or printed, and duly signed by the mayor, on a paper, upon which shall be written or printed a copy of the rules and regulations established relative to keeping, selling and transporting gunpowder within the said city; and every such license shall be in force for one year from the date thereof, unless annulled by the mayor and aldermen, and no longer; but such license may, prior to its expiration, be renewed by an endorsement thereon by the mayor for the further term of one year, and so from year to year; provided, always, that the mayor and aldermen may rescind or annul any such license, if, in their opinion, the person or persons licensed have disobeyed the law, or infringed any rule or regulation established by the mayor and aldermen. (P. L., 1833, Chapter 337, Section 1.)

**Amount to Be Paid for License — Sign of Door.**

SECTION 6. Every person who shall receive a license to sell gunpowder, as aforesaid, shall pay for the same to the treasurer of the city, the sum of five dollars, and every person on having a license renewed, shall pay to said treasurer the sum of one dollar. And any person or persons licensed to keep and sell gunpowder, as aforesaid, shall place and constantly keep in a conspicuous place over or at the side of the front door of the building in which powder is kept for sale, a sign, on which shall be inscribed in plain, legible letters, the words following, viz.: "Licensed to keep and sell gunpowder." (Ib., Section 2.)

**Mayor and Aldermen May Establish Rules and Regulations for the Sale of Gunpowder — Proviso.**

SECTION 7. The mayor and aldermen of the City of Portland are authorized to make and establish rules and regulations, from time to time, relative to the times and places at which gunpowder may be brought to or carried from said city, by land or water, and the time and manner in which the same may be transported through said city, and prescribe the kind of carriage, boat or vehicle, in which the same may be brought to, transported through, or carried from said city. Provided, however, that said rules and regulations shall not be applied to any person or persons, excepting inhabitants of the City of Portland, until personal notice shall have been given of the existence of said rules and regulations. (Ib., Section 3.)

**Penalties.**

SECTION 8. If any gunpowder, kept contrary to the provisions of this Act, or contrary to the terms and conditions of any such license, or to any rules and regulations established or to be established, by the mayor and aldermen, as aforesaid, shall explode in any shop, store, dwelling house, warehouse, or other building, or in any other place in said city, the tenant, occupant, or owner of said shop, store, dwelling house, warehouse, or other building or place, shall pay a fine of not less than fifty nor more than three hundred dollars, one moiety thereof to the use of the poor of said city, and the other moiety to the use of the person who may sue therefor, to be recovered by action of debt. (Ib., Section 4.)

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**RULES AND REGULATIONS OF THE MAYOR  
AND ALDERMEN.****GUNPOWDER, DYNAMITE, ETC.****Without License No Person Shall Keep More than One Pound of Gunpowder — Exceptions.**

SECTION 1. No person, except on military duty in the public service of the United States, or this State, shall keep or have in his shop, store, dwelling house, or in any place in the City of Portland, except as hereinafter provided, at any one time, a larger quantity of gunpowder than one pound, or of any other explosive compound (calcium carbide

excepted), that shall be known to be hazardous, unless he is licensed by the board of mayor and aldermen.

Provided, however, that in cases where a larger quantity is necessary for the prosecution of some work, the mayor may grant license to suitable persons for a limited time to keep a quantity not exceeding twenty-five pounds, upon receiving a satisfactory indemnifying bond to protect all parties from any loss or damage arising therefrom.

### **Persons Licensed Shall Not Keep More than Two Hundred Pounds.**

SECTION 2. No person, licensed as aforesaid, shall have or keep in his store, shop, dwelling house, or any tenement or place whatever, at any one time, a larger quantity of gunpowder than two hundred pounds.

### **How to Be Kept.**

SECTION 3. Every person licensed as aforesaid shall provide himself with a strongly made copper chest or box, with a copper cover well secured, with hinges of the same material and a suitable lock, and the kegs or canisters in which said powder may be shall be kept in said copper chest or box, which shall at all times be placed near the outer door of the building in which it is kept, in a convenient place for removal in case of fire.

### **Without License No Person Shall Haul or Land Gunpowder.**

SECTION 4. No person shall haul into or lay at any wharf, bridge or other landing place in the city, or bring within two hundred yards thereof, any boat or vessel having on board any quantity of gunpowder exceeding twenty-five pounds, or land from or receive on board any boat or vessel, at any such wharf, bridge or landing place, any gunpowder exceeding the amount aforesaid without obtaining a permit from the mayor, or in his absence the chief engineer of the fire department, and no boat or vessel with gunpowder on board in quantity exceeding twenty-five pounds, shall remain at any wharf, bridge, or any other landing place in the city more than six hours; nor shall any such boat or vessel be allowed to ground at any such place, or remain there after sunset.

### **Mayor and Chief Engineer of the Fire Department May Grant Certain Permits.**

SECTION 5. The mayor, or in his absence the chief engineer of the fire department, may grant permits to land gunpowder or other explosives for immediate shipment or transportation from any wharf in the city, provided that the consent in writing of the owner, agent or wharfinger of such wharf, shall first be delivered to the mayor or city clerk.

### **Conveyance of Gunpowder through Streets.**

SECTION 6. No gunpowder shall be conveyed through any of the streets of the city unless closely covered with canvas or some other suitable covering. When the quantity to be transported shall exceed four casks of twenty-five pounds each, the permission of the mayor, or in his absence the chief engineer of the fire department must be first obtained. In no case shall powder remain on board any vehicle for a longer time than is necessary for its removal.

### **Vessels Laden with Gunpowder Shall Display Red Flag.**

SECTION 7. All boats or vessels, while lying at or within two hundred yards of any wharf, bridge, or any other vessel, shall, so long as there is gunpowder exceeding four casks of twenty-five pounds each on board, display at the stern or bow a red flag, and in all cases casks or packages containing gunpowder shall be covered with canvas or other suitable covering.

### **Unlicensed Persons Not to Keep Gunpowder in City Magazine.**

SECTION 8. Persons not licensed to keep and sell gunpowder in the city shall not be permitted to have gunpowder in the city magazine.

### **Gunpowder to Be Kept in City Magazine — Rent.**

SECTION 9. No gunpowder shall be kept otherwise than as heretofore provided, except in the city powder magazine.

The powder magazine shall be in charge of the committee on public buildings, who are authorized to fix the amount of rent, to be collected by the city treasurer from the occupants.

### **Penalty.**

SECTION 10. Every person violating any of these rules and regulations will be liable to a fine of not less than twenty nor more than one hundred dollars, as provided in Chapter 26 of the Revised Statutes.

## CALCIUM CARBIDE.

### **Licenses for Keeping Calcium Carbide.**

SECTION 1. The board of mayor and aldermen may license suitable persons to keep and to have in their possession, for sale or other purposes, the substance known as calcium carbide. Such license shall be granted subject to the approval of the chief engineer of the fire department, and shall be without force or effect until so approved; such license shall be valid for one year from the date of such approval, and shall not be assigned, and may be revoked at any time by the board of mayor and aldermen. Every certificate of license shall designate the place or places in said City of Portland where calcium carbide may be kept by the license.

### **Without License No Person Shall Keep More Than Two Pounds of Calcium Carbide.**

SECTION 2. No person shall keep or have in his possession in any shop, store, dwelling house, buildings, or in any other place in the City of Portland, more than two pounds of calcium carbide, unless licensed as aforesaid.

### **Persons Licensed Shall Not Keep More Than One Hundred Pounds in Bulk — How to Be Kept.**

SECTION 3. Persons so licensed may keep and have in their possession for said purposes a larger quantity of calcium carbide than one hundred pounds, provided that the same be kept perfectly dry, in hermetically sealed packages, in a fireproof building not connected with or a part of another building. Persons so licensed may keep and have in their possession, for said purposes, not exceeding one hundred pounds of calcium carbide, provided the same be kept in a box that is fire and waterproof, said box to be kept in a dry place near a window or door.

### **Penalty.**

SECTION 4. All persons violating any of these regulations shall be subject to a penalty of not less than twenty dollars nor more than one hundred dollars for each offence, as provided in Chapter 26, Section 20, of the Revised Statutes of Maine.

## ORDINANCES.

**Persons Not to Discharge Guns in City — Penalty.**

SECTION 1. No person shall fire or discharge any gun, fowling piece, or firearms within the limits of the City of Portland under a penalty for every such offence of not less than one nor more than twenty dollars; provided, however, that this section shall not apply to the use of such weapons at any military exercise or review, or in the lawful defence of the person, family or property of any citizen.

**Sale of Explosives and Pistols to Children Forbidden.**

SECTION 2. No person shall sell to any child under sixteen years, without the written consent of a parent or guardian of such child, any blank cartridge, or any pistol or mechanical contrivance specially arranged or designed for the explosion of the same. Any person violating the provisions of this ordinance shall be liable to a penalty of not less than five nor more than one hundred dollars for each offence, to be recovered on complaint to the use of the City of Portland.

**Blasting.**

SECTION 3. No person shall blast any rock or other substance with gunpowder or any other explosive at any place within fifty rods of any street or public place in the city, without license of the mayor and aldermen, in writing, specifying the terms and conditions on which said license is granted, under a penalty of not less than twenty dollars for each offence; provided, however, that the remedy of any person injured by the blasting of rocks shall not be affected by this section.

## **CHAPTER 40.**

# **FENCES.**

### **Statutes.**

#### **Fences Maliciously Kept, Deemed Nuisances.**

SECTION 1. The obstructing or encumbering by fences, buildings or otherwise, highways, private ways, streets, alleys, commons, common landing places, or burying grounds, are nuisances within the limitations and exceptions hereafter mentioned. Any fence or other structure in the nature of a fence, unnecessarily exceeding eight feet in height, maliciously kept and maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a private nuisance. (R. S., Chapter 17, Section 5.) 79 Me. 343, 80 Me. 307, 83 Me. 273, 85 Me. 278.

#### **When Fences on a Street or Way Become Bounds — Continuance Justified after Forty Years — Persons May Admit Wrongful Occupancy.**

SECTION 2. When buildings or fences have existed more than twenty years fronting upon any way, street, lane or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such buildings or fences shall be deemed the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify their continuance thereon, and on indictment and conviction they may be removed. Persons owning lands beside a highway or townway, on which are buildings or fences that encroach within the limits of said way, may, by a writing under seal, by them signed and acknowledged, and recorded in the registry of deeds for the county in which the land lies, admit to the municipal officers of the town in which said way exists, the true bounds or limits of said way, and the extent of their wrongful occupancy thereof. And thereafter such persons, and all claiming title under or through them, shall be stopped from asserting any right to the continuance of such buildings or fences within said limits, for the full term of forty years from the date of such deed. (R. S., Chapter 18, Section 95.) 82 Me. 391, 83 Me. 508, 85 Me. 419.

**Fences May Be Taken Down by Town Officers to Prevent Drifting—To Be Replaced.**

SECTION 3. There shall be furnished and kept in repair in each surveyor's district, through which there is a mail route, some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of ten feet, and the municipal officers of towns, or highway surveyors under their direction, may take down fences upon the line of public highways when they deem it necessary to prevent the drifting of snow therein; but they shall in due season be replaced, in as good condition as when taken down, without expense to the owner. (R. S., Chapter 18, Section 62.)

**When Fences on Ways May Be Removed.**

SECTION 4. Any person may take down and remove gates, bars or fences upon or across any highway or townway, unless they are there to prevent the spread of infectious disease, or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license a person aggrieved by such removal may apply, and on proof that such erections were made by their license they may order them to be replaced by the person who removed them. (R. S., Chapter 18, Section 92.) 12 Me. 32, 38, 59 Me. 144.

**Malicious Injuries to Fences.**

SECTION 5. Whoever wilfully and maliciously cuts down, destroys, or otherwise injures any shrub or tree for ornament or use; breaks, injures or defaces any fence; throws down or opens any gates or bars; injures, destroys, or severs from the land of another, any produce thereof or thing attached thereto, such articles not being his own, shall be punished by imprisonment for less than one year, and by fine not exceeding one hundred dollars. (R. S., Chapter 127, Section 9.) 3 Me. 178, 5 Me. 409, 37 Me. 331, 60 Me. 410.

**Cities May Buy Land.**

SECTION 6. Towns may raise and assess money necessary for purchasing and suitably fencing land for a burying ground. (R. S., Chapter 15, Section 1.)

**Cities to Fence Ancient Burying Grounds.**

SECTION 7. Each town, parish or religious society, to which any ancient or public burying yard belongs, shall keep a substantial fence



around it in good repair; and, for neglect, shall forfeit not exceeding one hundred dollars, to be applied as prescribed in the preceding section by said officers of such town or the treasurer or committee of such parish or society. (R. S., Chapter 15, Section 4.)

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## ORDINANCES.

### **Fence to Be Maintained around Excavations in Streets.**

SECTION 1. Every person who shall have obtained a license to open or make or repair a drain or aqueduct in any street, court, alley, or other public place in the city, shall keep a good and sufficient fence or railing around the same during the whole time of making or repairing thereof, except when the laborers are actually at work.

### **Fences to Be Maintained about Dangerous Places on Line of Street.**

SECTION 2. Owners and lessees of any lot of land abutting on any street, lane, or private way in this city, which for want of a fence or rail shall be dangerous, shall place, or cause to be placed in front of said lot, upon or near the line of said street, lane, or private way, a fence rail, or guard, which in the opinion of the commissioner of public works shall be a sufficient guard or protection to the public from danger, by reason of the situation of such lot. And if any owner or lessee of such lot shall refuse or neglect compliance with the requirements of this section, he shall on conviction pay a penalty of not less than one dollar nor more than five dollars for every day during which such lot shall remain unfenced; and if the owners or lessees aforesaid shall neglect or refuse for two days after notice in the premises, from the city marshal or any police officer, to build or cause to be built such fence or guard, the commissioner of public works shall forthwith cause a proper fence or rail to be constructed in front of such lot, at the cost of the owners or lessees thereof.

### **Fences to Be Maintained about Stairs Descending from Sidewalks.**

SECTION 3. Every entrance or flight of steps descending immediately from any street, into any cellar or basement story of any building where such entrance or flight of steps shall not be safely and securely

covered, shall be enclosed with a railing on each side, permanently put up, at least three feet high from the top of the sidewalk or pavement, together with either a gate to open inwardly or two iron chains across the front of the entrance way, one near the top and the other half way to the top of the railing; and such gate or chain shall, unless there be a light over the steps to prevent accidents, be closed during the night. Any person who shall be guilty of a violation of any of the provisions of this section, shall be liable to a penalty of not less than five, nor more than twenty dollars, and a like penalty for each and every day during which such violation continues, which penalty may be recovered of the owner, occupant or other person having charge of such building.

#### **Barbed Wire Fences Prohibited on Line of Street.**

SECTION 4. No fence of barbed wire, or of which barbed wire is a part, shall be constructed or maintained within the City of Portland upon, or along, the line of any street or public way in such manner that any person passing along said street or way can come in contact with said barbed wire. Any person violating this ordinance shall, on conviction, pay a fine not exceeding twenty dollars for each offence.

## CHAPTER 41.

# FERRIES.

### Statutes.

#### **County Commissioners May License Ferries, Establish Tolls, Take Bond—Property to Be Appraised on Removal of a Ferryman.**

SECTION 1. County commissioners may license persons to keep ferries at such places and for such times as are necessary, except where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of State, with sureties, for the faithful performance of his duties.

Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry, at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto. (R. S., 1883, Chapter 20, Section 1.) 8 Me. 368, 42 Me. 9.

#### **They May Establish Ferries to Be Supported by Towns—Penalty for Neglect.**

SECTION 2. They may establish ferries at such times and places as are necessary, and fix their tolls. When no person is found to keep them therefor, the towns in which they are established, are to provide a person to be licensed to keep them, and shall pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they shall be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits forty dollars. (Ib., Section 2.)

#### **Penalty for Neglect to Keep Safe Boat, and for Neglect of Attendance.**

SECTION 3. Every keeper of a ferry shall keep a suitable and safe boat, or boats, for use on the waters to be passed, and give prompt

attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat, he forfeits twenty dollars, and for neglect of attendance, one dollar, to the prosecutor in an action of debt; and is liable in an action on the case to the party injured for his damages. (Ib., Section 3.) 85 Me. 122.

#### **A Person Injured by Default of a Ferryman May Sue Bond.**

SECTION 4. Any one injured in his person or property by the negligence or default of a ferryman, may commence a suit on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs. (Ib., Section 4.)

#### **Ferry Not within One Mile of Steam or Horse Ferry.**

SECTION 5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry can be established on the same river within one mile above or below it. (Ib., Section 5.)

#### **Penalty for Keeping a Ferry or Conveying Passengers or Property Contrary to Law.**

SECTION 6. A person who keeps a ferry contrary to the provisions of Sections 1 and 2 of this chapter, or without authority transports passengers or property across any licensed or established ferry for hire, or furnishes for hire a boat or other craft for such purpose, forfeits four dollars for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place, for damages sustained by him, in an action on the case. (Ib., Section 6.)

Ferries derive their power from their charters. Power discussed. (Day *vs.* Stetson, 8 Me. 365; State *vs.* Wilson, 42 Me. 9.)

#### **Ice to Be Leveled and Way Kept in Repair in Winter.**

SECTION 7. When tidal waters, over which ferries are established, become so frozen that travelers may pass on the ice, the keepers of them shall level the ice and clear and repair the passage way from day to day, so that the same may at all times be safe and convenient for travelers with teams, sleds and sleighs. Such way for passage may be made from a public landing sufficiently near to be connected with the opposite ferry landing. The commissioners shall fix a reasonable compensation therefor, to be paid from the county treasury. Or they may

contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting. (Ib., Section 7.) 79 Me. 456.

### **Penalty for Neglect and Liability for Injury.**

SECTION 8. The ferryman, or person so contracting, forfeits ten dollars for each day's neglect to perform such duty, and is liable in an action on the case for damages to any person injured thereby. (Ib., Section 8.)

### **Licensed Ferryman Not to Use Horse Boats or Steam Boats.**

SECTION 9. A licensed ferryman, who uses at his ferry a boat propelled by steam or horse power, forfeits his license, and is liable to any person or corporation for damages occasioned thereby. (Ib., Section 9.)

### **At Horse and Steam Ferries Other Boats Used in Times of Danger.**

SECTION 10. Persons required to use, at a ferry, steam or horse boats, may, when the passage by them is dangerous, use other safe boats. (Ib., Section 10.)

### **Obstructions to Ferries Prohibited — Penalty.**

SECTION 11. Whoever places a weir or other obstacle, or without necessity anchors or places a raft, vessel, or water craft, so as to obstruct the ordinary passageway of any boat at a ferry licensed or established, forfeits twenty dollars to the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within thirty minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing or dock, without any unreasonable delay or wilful misconduct. (Ib., Section 11.)

### **Piers May Be Sunk to Guide Boats at Ferries.**

SECTION 12. The proprietors of a ferry, to guide their boats, may sink piers near their ferry ways above and below the same, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing where vessels had previously taken or discharged freights. (Ib., Section 12.) *State vs. Wilson*, 42 Me. 19.

**Cape Elizabeth Ferry — Act to Incorporate — Powers of Company — Real Estate and Personal Property.**

SECTION 13. John B. Curtis, Benjamin Willard and James I. Libby, their associates, successors and assigns, are hereby created a corporation by the name of the Portland and Cape Elizabeth Ferry Company, with power to prosecute and defend suits, to make By-laws and regulations for the management of its affairs not repugnant to the laws of the State, to lease or purchase and hold such real and personal estate as may be necessary to effect the object of the corporation, and use and enjoy all the powers, rights and immunities incident to such corporations. (Private Laws of 1872, Chapter 124.)

**May Establish a Ferry — Proviso.**

SECTION 14. Said corporation is hereby authorized to set up, establish and maintain a ferry across Fore river, between Ferry Village in Cape Elizabeth, and Portland, at such place as said corporation may select, provided the same shall be set up and established to start from, and land at such places, buildings or wharves as said corporation may purchase or lease for the purposes, with the rights to maintain, keep and run, suitable boat or boats for the safe and convenient transportation of passengers and freight. (Ib., Section 2.)

Public highway to be constructed in Portland into tide waters. Ferry way. (Private Laws of 1873, Chapter 375.)

(See Streets, Section 15, *post*.)

**Toll.**

SECTION 15. A toll is hereby granted and established for the benefit of said corporation, as follows: for each foot passenger five cents, and for each hundred pounds of freight, or less, four cents; provided, however, the rate of toll may at any time be modified by the legislature. (Ib., Section 3.)

**Time of Running Boats — Forfeiture in Case of Neglect — Liable for Loss or Damage.**

SECTION 16. The time for running said boat or boats shall be from six o'clock in the forenoon to eight o'clock in the afternoon, from the first day of April to the first day of October; and from six and a half o'clock in the forenoon to seven o'clock in the afternoon, from the first day of October to the first day of April in each year. And if said corporation shall neglect to furnish suitable and proper attendance, and

suitable, safe and proper boat or boats at any time within the hours prescribed for running the same for the transportation of passengers or freight, as authorized by this Act, said corporation shall forfeit and pay for each case of such neglect the sum of ten dollars, to be recovered in an action of the case by the person aggrieved thereby in any court of competent jurisdiction; said corporation shall also be liable in a like action to the party injured, for loss and damage occasioned by the neglect or want of proper care on the part of said corporation, its agents or servants. But the requirement for running said boat or boats during the hours above prescribed shall not be construed as preventing said company from running its boat or boats at other times; and said company may run its boat or boats during such other hours as it may, from time to time, deem that the public accommodation requires. (Ib., as amended by P. L. of 1893, Chapter 417.)

### **Capital Stock.**

SECTION 17. The capital stock of said corporation shall be ten thousand dollars, divided into such number of shares as the corporation shall determine, with power to increase the capital from time to time by vote of two-thirds of the stockholders at a meeting held for that purpose, to twenty-five thousand dollars. (Ib., Section 8.)

### **Ferry Landing — Portland Pier.**

SECTION 18. The county commissioners of the county of Cumberland are hereby authorized to enlarge the ferry way and landing at the end of Portland pier in the City of Portland, as heretofore laid out, for the purpose of accommodating public travel by furnishing a proper berth for a larger steam ferry boat than the one heretofore used, and to locate and determine the extent of the enlargement thereof, with right to take private property therefor in like manner and effect as in locating other highways in said county. (P. L., 1893, Chapter 631.)

### **People's Ferry Company — Powers and Privileges.**

SECTION 19. Frederick H. Harford, Charles A. Tilton, Tristram G. Hutchins, David A. Kincaid, Aurelius V. Cole, Andrew W. Smart, Rotheus M. Cole, Caleb Dyer, William Spear, Nathan R. Dyer, M. Saunders Small, Albert M. Spear, and their associates, successors and assigns, are hereby created a body politic and corporate, by the name of the People's Ferry Company, with power by that name to sue and be sued, to have and use a common seal, to establish suitable By-laws

and regulations for the proper management of its affairs, not repugnant to the laws of the State, and to exercise and enjoy all the powers and privileges incident to regular corporations. (P. L., 1885, Chapter 495, Section 1.)

### **Capital Stock.**

SECTION 20. The capital stock of said company shall not be less than ten thousand dollars, nor more than sixty thousand, and shall be divided into shares of fifty dollars each. (Ib., Section 2.)

### **Authorized to Establish Steam Ferry between Cape Elizabeth and Portland.**

SECTION 21. Said corporation is hereby authorized to establish, set up and maintain a steam ferry across Fore river, between Ferry village in Cape Elizabeth, and Portland, at such places as said corporation may select and acquire by lease, purchase, gift, or in some other lawful manner, with a double end ferry boat or boats, to be propelled by steam, and such other boats as may be suitable and convenient for the night time or when said river is obstructed by ice. (Ib., Section 3.)

### **Tolls Established.**

SECTION 22. That a toll be and is hereby granted and established for the use of said corporation, according to the following rates, namely: For each foot passenger, not exceeding four cents, and thirty-five tickets for foot passengers shall be sold upon demand for one dollar; for one vehicle drawn by one horse, with driver, ten cents; for one coach with two horses and driver, fifteen cents; for each additional horse or person, four cents; for each cart or sled, with two oxen and driver, fifteen cents; for each additional yoke of oxen, five cents; all other neat cattle and beasts of burden, three cents; sheep, swine and smaller animals, two cents each; and for each hundred weight of freight or less, four cents; and for all trips made between nine o'clock in the evening and eleven and one-half o'clock at night, double fare may be charged. (Ib., Section 4.)

### **Shall Provide Landings, Boats and Attendance — Penalty for Neglect — How Recovered.**

SECTION 23. That said corporation shall, at all times, keep at the ferry established as aforesaid, after suitable and convenient landing places are provided, a boat or boats in good repair, suitable and convenient for the accommodation of travellers, their horses, carriages,



carts, teams and cattle, and until such landing places are provided as aforesaid, such double end ferry boats may be used for the carriage of passengers and freight, and said corporation shall cause due and ready attendance on patrons to be given on all occasions; and for every neglect of such attendance, said corporation shall forfeit and pay five dollars, and for every neglect in keeping such boat or boats, unless prevented by unavoidable circumstances or accident, fifty dollars, each penalty to be recovered by action of debt in any court of competent jurisdiction, to the use of any person who shall sue therefor, and shall be further liable to pay, in an action on the case, such special damages as any person may sustain by its unreasonable neglect. (Ib., Section 5.)

#### **Time for Running Boats Fixed.**

SECTION 24. The time for running said boat or boats, unless prevented by accident or unavoidable casualty, shall be from six o'clock in the forenoon to eleven and one-half o'clock in the night time; and from six o'clock in the forenoon until nine o'clock in the afternoon, two round trips shall be made hourly, and from nine clock in the afternoon until eleven and one-half o'clock in the night time, one round trip shall be made hourly. (Ib., Section 6.)

#### **First Meeting How Called.**

SECTION 25. Any three persons named in the first section of this Act are hereby authorized to call the first meeting of the corporation by giving notice in the Cape Elizabeth Sentinel seven days before the time of said meeting. (Ib., Section 7.)

#### **Act Void Unless Ferry Is in Operation within Two Years — Highway to, in Tide Waters, Not to Be Located Till Ferry is Established.**

SECTION 26. Unless the ferry hereby authorized is established and put in operation within two years from the approval of this Act, then the same shall be void. And it is provided that the county commissioners of the County of Cumberland shall not be called upon to locate a public highway in tide waters in the City of Portland under the Act of 1873, entitled "an Act to authorize and empower the county commissioners of Cumberland County to construct and maintain a public highway into tide waters in the City of Portland," until a double end ferry boat suitable for the carriage of teams and carriages is put upon said ferry route, and its continuous operation secured to the satisfaction of said county commissioners. (Ib., Section 8.)

## **CHAPTER 42.**

# **FINANCE.**

### **CONSTITUTIONAL AMENDMENT.**

#### **Power to Create Debt.**

**SECTION 1.** No city or town shall hereafter create any debt or liability, which, singly, or in the aggregate with previous debts or liabilities, shall exceed five per centum of the last regular valuation of said city or town; provided, however, that the adoption of this article shall not be construed as applying to any fund received in trust by said city or town, nor to any loan for the purpose of renewing existing loans or for war or to temporary loans to be paid out of money raised by taxation during the year in which they are made. (Amendment to Constitution, February 9, 1877.)

(For definition of term "municipal indebtedness" see Chapter 195, of the P. L. of 1893.)

(NOTE. "A city is forbidden to 'increase its debt or liability,' entirely irrespective of its assets. . . . In computing indebtedness, to ascertain whether it is within the limit, the courts do not permit the deduction of assets. The debt stands alone. Even cash in the treasury for the purpose of paying bonds cannot be deducted. So neither can uncollected taxes nor the levy for the present year be deducted." 92 Me. 321, 85 Me. 311.

But the uncollected taxes may be regarded as available for current expenses, and may be deducted from such expenses up to the time of the annual tax sale. 51 Iowa 385, 36 N. E. R. 252, 42 Iowa 614.)

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#### **Statutes.**

#### **Power of City of Portland to Create Debt Limited to Five Per Cent. of Her Valuation.**

**SECTION 1.** Neither the inhabitants of the City of Portland, nor the city council, nor any officer or officers thereof, shall hereafter create any debt or debts, liability or liabilities, on behalf of said city, which

shall singly or in the aggregate with other debts and liabilities hereafter or heretofore created in behalf of said city, exceed five per cent. of the valuation of said city for the year in which it is proposed to create said debt or liability, nor shall create such debt or liability so long as the aggregate debts and liabilities of said city exceed five per cent. as aforesaid, nor shall issue any notes, bonds, or any certificates or evidences of indebtedness, for any such debt or liability; nor shall the credit of said city be directly or indirectly loaned in any case, and no existing statute, whether public or private, shall be construed as vesting any authority to loan such credit, nor to create such debt or liability, or issue such bond, note, or other evidence of indebtedness, nor shall any statute, public or private, hereafter passed, be construed as vesting such authority, unless express reference is made therein to the provision of this Act. (Private Laws of 1877, Chapter 345.)

Act went into effect March 15, 1877.

### **Not to Apply to Fund in Trust, or to Temporary Loan for Municipal Purpose.**

SECTION 2. This Act shall not apply to any fund which said city may receive in trust, nor to any loan for municipal purposes, for payment of which, provision is made by assessment of the amount in the municipal tax during the municipal year in which the same is incurred, nor to any loan issued for the purpose of renewing or paying the principal of existing loans or liabilities. (Ib., Section 2.)

### **Jurisdiction of Supreme Judicial Court.**

SECTION 3. The Supreme Judicial Court shall have jurisdiction in equity to prevent violation of this Act, on application of any one or more taxable inhabitants of said city. (Ib., Section 3.)

### **City Council Authorized to Purchase Real and Personal Estate, Not Exceeding \$200,000.**

SECTION 4. The city council of the City of Portland shall have the power to purchase and take, in the name of the city, real and personal property for municipal purposes, to an amount not exceeding two hundred thousand dollars in addition to that now held by the city. (Act, 1875, Chapter 21.)

### **School Money, How Paid.**

SECTION 5. All moneys appropriated for the use and support of public schools in the City of Portland, shall be paid by the treasurer

of the city, upon the account being approved by the mayor and committee of accounts for the City of Portland. The provisions of Chapter 196, of Public Laws of 1877, shall not apply to the City of Portland. (Private Laws of 1879, Chapter 131.)

### **For What Purposes Money May Be Raised by Towns.**

SECTION 6. The voters, at a legal town meeting, may raise the necessary sums for the support of schools and the poor; making and repairing highways, town ways and bridges; purchasing and fencing burying grounds; purchasing or building and repairing a hearse and hearse house, for the exclusive use of its citizens; and for other necessary town charges. (R. S., Chapter 3, Section 46.) 3 Me. 91, 195, 14 Me. 378, 36 Me. 317, 51 Me. 176, 52 Me. 597, 54 Me. 250, 63 Me. 236, 72 Me. 354, 522, 89 Me. 39.

(As to power to aid in construction of railroads, see Revised Statutes, Chapter 51, Sections 135, 136, 140. 108 Mass. 408, 112 Mass. 1, 114 Mass. 592.)

### **Towns May Procure Town Histories — Build Soldiers' Monuments, for Not More than \$5,000.**

SECTION 7. Cities and towns may raise money to procure the writing and publication of their histories, and a sum not exceeding five thousand dollars in any one town for the purpose of erecting a suitable monument in memory of the soldiers who sacrificed their lives in defence of their country in the recent war. (Ib., Section 47.) 59 Me. 494.

### **City May Appropriate Money for Observance of Memorial Day.**

SECTION 8. Towns and cities of the State of Maine are hereby authorized and empowered to appropriate money for the purpose of defraying the expense for the observance of Memorial Day. (P. L., 1885, Chapter 19.)

### **Doings of Cities and Towns Made Valid.**

SECTION 9. The past Acts of towns in offering, paying and contracting to pay, and in raising and providing means to pay expenses for recruiting for their several quotas, or bounties to or for volunteers, drafted men or substitutes of drafted men, or enrolled men, mustered into or enlisted for the military or naval service of the United States,

are made valid, provided that such Acts have been done at meetings legally called and held in pursuance of warrants therefor, setting forth the purposes upon which such Acts were based. All taxes assessed, contracts made, and notes and orders given by municipal officers in pursuance of votes passed at such meetings, are valid. (Ib., Section 48.) 51 Me. 610, 52 Me. 596, 53 Me. 450, 458, 575, 55 Me. 9, 69, 572, 56 Me. 202, 451, 59 Me. 316, 421, 548, 60 Me. 122, 65 Me. 342, 69 Me. 41, 55, 75 Me. 73.

#### **Contracts Made Valid.**

SECTION 10. Contracts made in pursuance of votes passed at such meetings, by such municipal officers, or their agents, with any volunteer, drafted man, or substitute, or with third persons, or associations, for providing means to pay bounties to volunteers, drafted men or substitutes, are valid. (Ib., Section 49.) 51 Me. 174, 52 Me. 595, 54 Me. 250, 59 Me. 548, 60 Me. 122, 69 Me. 41, 56.

#### **Unauthorized Contracts by Municipal Officers May Be Made Valid.**

SECTION 11. Contracts heretofore made by such municipal officers, or by third persons, for any town without previous authority, to pay bounties to or for volunteers, drafted men or substitutes, in or enlisted for the military or naval service of the United States, may be ratified by any town at legal meetings called and notified as provided in Section 48, Chapter 3, of the Revised Statutes. (Ib., Section 39.) 55 Me. 14, 196, 69 Me. 55, 75 Me. 73.

#### **City May Receive Money in Trust.**

SECTION 12. Any city or town may receive money by donation or legacy in trust for benevolent, religious or educational purposes, for the erection and maintenance of monuments, and for the benefit of public cemeteries and lots therein; provided, that the city or town lawfully consents. (R. S., Chapter 3, Section 51.) 85 Me. 129, 511.

#### **City May Receive Devises and Gifts for Public Library.**

SECTION 13. Any city, town or plantation, as such, may receive, hold and manage devises, bequests or gifts for the establishment, increase or maintenance of a public library therein. (R. S., Chapter 55, Section 10.)

**Fund, How Applied.**

SECTION 14. The city or town, by its officers or agents, shall apply the fund or its income in accordance with the written directions of the donor or testator, made known at the time when the fund was accepted. (R. S., Chapter 3, Section 53.) 85 Me. 511.

**If Trust Fund Misapplied It Shall Revert to Donor or Heirs.**

SECTION 15. If the city or town fails to apply the fund or its income at the times and for the purposes prescribed in said directions, it reverts to the donor, if living; otherwise, to his heirs. (R. S., Chapter 3, Section 54.)

**Trust Funds May Be Used by the City, if City Council So Votes — Rate of Interest, How Fixed.**

SECTION 16. Interest shall be allowed if the fund is used by the city or town; and any city or town may use the principal of any trust fund for municipal purposes if the town, or the city council of the city votes to so use it, at a meeting called after due notice, at a rate of interest less than six per cent., if the party creating the trust so provided, or by agreement with the beneficiary, approved by a decree in equity of the Supreme Judicial court, or such city or town may procure a decree from the Supreme Judicial Court sitting in equity, establishing the rate of interest that such city or town shall pay for the use of such fund, and the Supreme Judicial Court is hereby given jurisdiction over the question of such use and rate of interest in such cases; otherwise, it shall be placed at interest or income, the city or town being otherwise responsible for its security. (R. S., Chapter 3, Section 52.) 85 Me. 129, 511.

**Sinking Fund.**

SECTION 17. Any town or city which has a funded indebtedness may create a sinking fund for the payment and redemption of such indebtedness, may raise money by taxation for such purpose, and may purchase its own bonds as well as other securities, and place them in such sinking fund. (P. L., 1897, Chapter 208, Section 1.)

**How Fund Shall Be Used — Penalty for Misuse of.**

SECTION 18. Such sinking fund shall be used for no other purposes than those provided for in this Act, and any town officer who shall use

or appropriate the moneys or securities which compose such sinking fund in any other manner or for any other purpose, than as provided by this Act, shall be punished by fine not exceeding two thousand dollars or by imprisonment for not more than two years. (Ib., Section 2.)

### **Orders for Money to Be Signed by Mayor.**

SECTION 19. No money shall be paid out of the city treasury except on orders drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor by the city council. (City Charter, Section 7.)

### **Expenditure of Public Money.**

SECTION 20. All departments, boards, officers and committees, acting under the authority of the city, and entrusted with the expenditure of public money, shall expend the same for no other purpose than that for which it is appropriated; and shall be accountable therefor to the city in such manner as the city council may direct. (Ib., Section 19.)

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## **ORDINANCES.**

### **Committee on Accounts to Be Appointed — Duty.**

SECTION 1. There shall be appointed annually, by the city council, a joint committee on accounts, to consist of one on the part of the board of mayor and aldermen, and two on the part of the common council, whose duty it shall be to carefully examine all claims and accounts against the city, when certified by the auditor.

### **City Treasurer's Duties.**

SECTION 2. It shall be the duty of the city treasurer and collector to collect and receive all rents which may be due to the city, and under the direction of the mayor and aldermen to seal and execute all leases of city lands or buildings. He shall also receive all fines and penalties which may be paid to him from time to time. He shall proceed without delay to collect all accounts which may be delivered to him for collection, and in any case in which he is unable to obtain a settlement of an account he shall report the same to the mayor and aldermen, and follow such directions as they may deem it for the interest of the city to prescribe.

### **Committee on Accounts to Audit the Accounts of City Treasurer and Auditor.**

SECTION 3. It shall be the duty of the committee on accounts to audit the accounts of the city treasurer and of the auditor, and of the secretary and treasurer of Evergreen Cemetery at the close of each financial year, and as much oftener as they may deem expedient; and for this purpose they shall have access to all books and vouchers in their possession or in the possession of the city clerk, or any other officer of the city, and they shall in every case report to the city council the result of their examination.

(See also Chapter relating to duties of City Auditor.)

### **City Treasurer to Give Bonds.**

SECTION 4. The city treasurer and collector shall give bond, with sufficient sureties, to the satisfaction of the mayor and aldermen, for the faithful performance of the duties of the said office of the treasurer and collector, and that he will truly and justly account for all moneys that may come into his hands.

### **Financial Year — Accounts to Be Made to.**

SECTION 5. The city treasurer shall make up his annual accounts to the first day of January, and the financial year shall begin on the first day of January and end on the last day of December in each year.

### **Committee on Finance to Be Appointed — Duties.**

SECTION 6. There shall annually be appointed a joint committee on finance, to consist of the mayor and two aldermen, on the part of the board of mayor and aldermen, and three members of the common council, whose duty it shall be, under the direction of the city council, to negotiate all loans made on account of the city, and to consider and report on all subjects relating to the finances of the city.

### **City Officers to Pay Over Moneys to the Treasurer.**

SECTION 7. It shall be the duty of the city clerk, marshal, deputy marshals, weighers of hay, and other officers of the city, authorized to collect moneys, to pay over to the city treasurer, monthly, all moneys which they shall receive, belonging to the city.



**Registered Bonds.**

SECTION 8. Whenever the holder of any coupon bond of the city shall surrender the same, with the unpaid coupons, to the city treasurer, for the purpose of having the same converted into a registered bond, it shall be the duty of the city treasurer to receive and cancel the same, and to issue to the person surrendering the same a certificate to be countersigned by the mayor, setting forth that such person is entitled to receive from the city, in accordance with a registered bond of the city for that purpose, a sum of money corresponding to the amount of such coupon bond surrendered, payable at the same time, and with interest at the same time and rate of payment, all payable at the office of the city treasurer, and such registered bond shall therefor be filled out by the city treasurer, signed and countersigned as above, and kept in suitable books of registry provided for that purpose, with a number and other necessary references corresponding to the number and description of the certificate issued. And the faith of the city is hereby pledged for the payment of all sums due upon such registered bonds, with interest according to their tenor, to the lawful holders of such certificate.

**Forms and Regulations.**

SECTION 9. The necessary forms for such registered bonds and certificates, and for the transfer of the same, and the necessary regulations for the payments of interest accruing thereon, and for preserving the evidences of the same, and for making and preserving the records of the transfers, shall be determined by the joint standing committee on finance, and the forms and regulations so determined shall be observed by the city treasurer. The city treasurer's fee for registry shall be fifty cents for each registered bond, and for transfer twenty-five cents for each certificate, to be paid by the bondholder.

**Denomination Five Hundred Dollars.**

SECTION 10. All such registered bonds shall be of the denomination of five hundred dollars (\$500), or any multiple thereof, and one certificate may issue for any number of coupon bonds of the same class surrendered.

**Loans.**

SECTION 11. Whenever the city council shall hereafter authorize any loan other than temporary loans, to be made for municipal pur-

poses, the city treasurer shall be authorized, unless otherwise directed by the city council, to effect such loan or such part of the same as the joint standing committee on finance shall direct, upon registered bonds, and certificates issued therefor in like manner, and under such regulations as are prescribed in the first section for the registered bonds and certificates therein provided for.

### **Blanks and Books.**

SECTION 12. The city treasurer, under the direction of the committee on finance, is hereby authorized to procure suitable blanks and books necessary to carry this ordinance into effect; the expenditure incurred therefor shall be subject to the approval of the mayor, and upon such approval may be allowed by the committee on accounts.

### **Transfer.**

SECTION 13. No such registered bonds shall be transferred except at the office of the treasurer, and no other transfer of the same shall be binding on the city.

### **Dispose of Same.**

SECTION 14. Whenever it may be necessary to dispose of any registered bonds belonging to the sinking fund of the city, for the purpose of raising means for the payment of any of the city bonds or certificates matured or maturing, such bonds may be, by order of the city council, surrendered, and corresponding coupon bonds issued therefor.

### **Sinking Fund — Real Estate Fund.**

SECTION 15. The city treasurer and auditor shall place to the credit of a fund to be called the "Real Estate Fund," all moneys received from the sale of real estate belonging to the City of Portland, situated on the northerly side of Portland street, and known as the "City Farm Property." The money so received and credited shall be used for the building of a new almshouse and for no other purpose.

(See also title "Sinking Fund," *post.*)

### **Sinking Fund — Committee on Reduction of City Debt.**

SECTION 16. The mayor, the chairman of the board of aldermen and the president of the common council, shall be a committee to be called the committee on the reduction of the city debt, whose duty it shall be to cause all moneys passed to their credit in the books of the

city auditor to be applied to the purchase or payment of the capital of the debt of the city, in the manner they may from time to time deem expedient; and it shall be the duty of the city auditor and the city treasurer to conform to all orders in writing in this respect, which shall be made and signed by all members of said committee.

### **Appropriations for the Payment of City Debt.**

SECTION 17. All balances of money unappropriated, remaining in the treasury at the end of any financial year, all excesses of income over the original estimated income, except in the case of sewer assessments, fees and fines recovered for the use of the city, receipts on account of interest, rents and support of the poor, all balances of appropriations, original or by additions, remaining on the books of the city auditor, all receipts in money on account of the sale of any real estate of any description now belonging or which may hereafter belong to the city, excepting the sale of burial lots in the cemeteries of the city, all receipts on account of the principal sum of any stock, bonds or notes now owned, or which may hereafter be owned by the city, and also of the annual tax, such sum as the city council of each year shall fix and determine, not less than one per cent. of the then existing city liabilities, after deducting therefrom the amount of the Atlantic & St. Lawrence Railroad Loan and the Building Loan, shall be, and the same is hereby appropriated to the payment or to the purchase of the principal of the city debt.

### **Duty of Auditor.**

SECTION 18. It shall be the duty of the city auditor, annually, to pass to the credit of the committee on the reduction of the city debt, all receipts, the proceeds of either of the sources before mentioned, and the said amount out of the annual tax; and the sums so passed to the credit of said committee shall be drawn from the city treasury for the payment, or the purchase of the capital of the city debt, in the manner before mentioned, and for no other purpose whatever.

### **Committee May Loan to City Treasurer.**

SECTION 19. The committee on the reduction of the city debt is hereby authorized to lend on interest to the city treasurer any amount so passed to their credit as aforesaid, which may not be immediately wanted for the purchase or redemption of said debt.

## **CHAPTER 43.**

# **FINES AND PENALTIES.**

### **Statutes.**

#### **Municipal Court Has Jurisdiction for Violations of Ordinances.**

SECTION 1. The Municipal Court for the City of Portland has exclusive jurisdiction of all offences against the By-laws and ordinances of the city. (P. L., 1856, Chapter 204, Section 4.)

#### **Penalties for Breach of By-laws.**

SECTION 2. The city council may ordain reasonable By-laws and regulations for municipal purposes, and impose penalties for the breach thereof, not exceeding one hundred dollars, to be recovered for such uses as the municipal authorities may appoint. (City Charter, Section 1.)

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### **ORDINANCE.**

#### **Penalty.**

SECTION 1. When no punishment is provided by ordinance, a person convicted of an offence under any ordinance shall be fined not less than five nor more than twenty dollars for each offence.

## **CHAPTER 44.**

# **FIRE DEPARTMENT.**

### **Statutes.**

## **ACT ESTABLISHING A FIRE DEPARTMENT IN THE TOWN OF PORTLAND.**

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Chapter 134 of Special Laws of 1831, approved  
February 19, 1831.

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### **Selectmen of Town May Appoint Members of Fire Department.**

SECTION 1. The fire department of the Town of Portland shall hereafter consist of one chief engineer, and as many other engineers, fire wards, firemen, hosemen, hook and laddersmen, ax and sailmen as the selectmen of said town from time to time may nominate and appoint, not exceeding three hundred, in addition to the number at present employed.

### **Duty of Engineers and Fire Wards.**

SECTION 2. It shall be the duty of the engineers or fire wards to see that all the fire apparatus belonging to said town be constantly kept in good and complete order, and it shall be their duty to see that all engines, hose and ladders be cleaned and repaired as soon as may be after any fire.

### **Powers and Authority of Engineers—Liability of Town for Damages.**

SECTION 3. The chief engineer, engineers or fire wards so nominated and appointed shall have the same power and authority relative to the pulling down or demolishing any house or other buildings to prevent the spreading of fires, also relative to all other matters and

things affecting the extinguishment or prevention of fires or the commanding assistance, as fire wards now by law have. And the said Town of Portland shall be liable to pay all such reasonable compensation for damage done by or consequent upon the acts or directions of said engineer, engineers, or fire wards, as other towns in this State are liable to pay, in like cases, for damage consequent upon the acts or directions of their fire wards.

#### **Privileges, Etc., of Fire Department.**

SECTION 4. The members of said fire department shall be liable to all the duties, and shall enjoy all the privileges that other firemen in this State are subject to and enjoy by law at the present time.

#### **Selectmen to Make Rules and Regulations for Government of Members.**

SECTION 5. After the acceptance of this Act by the inhabitants of the said Town of Portland the selectmen shall be authorized and directed to make and publish such rules and regulations for the government and direction of the several members of the same, as they may from time to time think proper and expedient; and the rules and regulations so made and published shall be binding upon the members of said department and upon the inhabitants of the town generally, provided they shall not be contrary to the Constitution of this State and the provisions of this Act.

#### **Repeal of Former Laws.**

SECTION 6. From and after the organization of a fire department under this Act, and notice thereof given in one or more newspapers published in said town by the selectmen thereof, all laws of this State relating to the election of fire wards, so far as they affect the nomination and appointment of fire wards within said town, be, and the same are, hereby repealed.

#### **Act to Take Effect When Accepted by Vote of Town.**

SECTION 7. The provisions of this Act shall not take effect until the same shall have been accepted by a vote of the town of Portland, taken by ballot at a general meeting called for that purpose.

(Accepted by the town at a general meeting held July 11, 1831.)

**Powers of Fire Department, in Whom Vested.**

SECTION 8. All powers relating to the fire department are vested by the city charter, in the mayor and aldermen and common council of the City of Portland, to be exercised by concurrent vote, each board to have a negative on the other. (City Charter, Section 5.)

**Towns May Prescribe Rules for Care and Management of Fire Engines and Apparatus — For Employment of Men — For Appointment of Officers.**

SECTION 9. Any town, corporation or individuals providing fire engines, hose, ladders, or other apparatus for the extinguishment of fires, or the preservation of life or property from destruction at fires, may by ordinances or By-laws, prescribe rules and regulations for the care and management thereof, for the employment and compensation of men, not exceeding sixty to each engine, whether enginemen or other persons, and for the appointment of officers to govern them when on duty, and to take charge of such apparatus, and may prescribe their style, rank, powers and duties. (R. S., Chapter 26, Section 1.) 78 Me. 118.

**Officers So Chosen Have Powers of Fire Wards — Towns Liable for Acts of — Powers, Privileges and Duties of Men So Employed.**

SECTION 10. The engineers, or other officers chosen by any town under any ordinance or By-law, shall in addition to the powers thereby conferred, exercise all the powers and duties of fire wards as prescribed in Chapter 26, of the Revised Statutes, unless restricted by the ordinance or By-law under which they are chosen; and such towns are responsible for the acts of their said officers, as for the acts or orders of fire wards in similar cases; and such firemen and enginemen, so employed, have all the powers and privileges, and are subject to all the duties and liabilities of enginemen, as prescribed in said Chapter 26, of the Revised Statutes. (Ib., Section 2.)

**Enginemen Excused from Serving as Jurors.**

SECTION 11. Such enginemen shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations, respecting their duty, as are approved by said municipal officers and not repugnant to the laws of

the State, and affix penalties to be recovered by their clerk not exceeding six dollars for any one offence. (Ib., Section 3.) 71 Me. 348.

### **Duties of Engine Companies.**

SECTION 12. Companies of enginemen shall meet once every month, and oftener if necessary, to examine the state of their engines and the appendages thereof; and by night or by day, without delay, under the direction of the fire wards, they shall use their best endeavors to extinguish all fires in the town or in its immediate vicinity. (Ib., Section 4.)

### **Discharge of Negligent Enginemen, and Selection of Enginemen for Other Duties at Fires.**

SECTION 13. On proof of negligence, the municipal officers may discharge any engineman or member of a company organized under special laws from the company, and appoint some other person in his stead, and they may select from the enginemen any number for each engine in their town, who shall, under the direction of the fire wards, attend fires therein with axes, fire hooks, fire sails and ladders, and perform such further duty as said officers from time to time prescribe. (Ib., Section 5.)

(As to obstruction caused on street by firemen, see *Davis vs. Winslow*, 51 Me. 264.)

### **Election of Fire Wards — Notice — Penalty for Not Accepting.**

SECTION 14. Each town, at its annual meeting, may elect as many fire wards as it deems necessary; and each person so chosen shall be notified in three days, and shall enter his acceptance or refusal of the office, with the town clerk, within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused the town shall elect another in his place. (Ib., Section 6.)

### **Duty of Fire Wards and Other Officers at Fires.**

SECTION 15. When fire breaks out in any town, the fire wards shall immediately attend at the place with their badges of office; and when there, any three of them may direct any building to be pulled down or demolished, if they judge it necessary to prevent the spread of the fire; but in their absence the major part of the municipal or any two civil or military officers present, in the order they are named, have the same power. (Ib., Section 7.)

(Power of one of municipal officers to direct building to be pulled down. *Frankfort vs. County Commissioners*, 40 Me. 389.)



**Power of Fire Wards at Fires—Penalty for Refusing to Obey.**

SECTION 16. During the continuance of any fire, said fire wards or other officers may require assistance in extinguishing the fire and removing merchandise and furniture; appoint guards to secure the same, and to aid in pulling down or demolishing buildings and suppressing disorder and tumult; and generally may direct all operations to prevent further destruction or damage; any person refusing to obey their orders forfeits the sum of ten dollars. (Ib., Section 8.) 63 Me. 47.

**Officers Appointed Under Special Laws, May Demolish Buildings, When.**

SECTION 17. The chief engineer, engineers, fire wards, and other officers appointed for particular localities under special laws, have the same power as fire wards to pull down or demolish buildings in order to prevent the spreading of fires, and to do things for the extinguishment thereof; and the town to which they belong is liable to pay such compensation for damages consequent upon their acts, as other towns are for similar damages; and the members of the fire department in such localities shall enjoy all the privileges, and be liable to all the duties of other firemen; but nothing herein shall be construed to control the manner of their election. (Ib., Section 9.) 63 Me. 47.

**Compensation for Building Demolished—Recovery, by Action on the Case.**

SECTION 18. If the pulling down or demolishing of any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town, in a special action on the case. (Ib., Section 10.) 63 Me. 47.

(Under a similar statute in Massachusetts it is held that a city is not liable for a personal injury resulting from the negligence of officers and members of the fire department in performing their duties. *Fisher vs. Boston*, 104 Mass. 87.)

**Plundering at Fires Declared Larceny.**

SECTION 19. Whoever steals, carries away, or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards, shall be deemed guilty of larceny, and punished accordingly. (Ib., Section 11.)

**Larceny in a Building on Fire or of Property Removed at a Fire.**

SECTION 20. Whoever commits larceny in a building on fire, or steals property removed on account of an alarm of fire, shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars. (R. S., Chapter 120, Section 3.)

**Penalty for Occupying Tenement for Sailmaker, Rigger or Livery Stable, Except As Municipal Officers Direct.**

SECTION 21. No person shall occupy any tenement in a maritime town for sailmaker, rigging, or as a livery stable, except where the municipal officers direct; whoever violates this section forfeits ten dollars a month during the continuance of such occupancy. (R. S., Chapter 26, Section 12.)

**Municipal Officers to Direct Defective Chimneys to Be Removed or Repaired, under a Penalty.**

SECTION 22. On complaint of any citizen that a chimney, stove, stovepipe, oven, furnace, boiler, or appurtenance is defective, out of repair, or so placed in any building as to endanger it or any other building, the municipal officers, if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he forfeits not less than ten nor more than one hundred dollars. (Ib., Section 13.)

**Penalty for Lighting or Smoking Pipe or Cigar in Mills, Etc.**

SECTION 23. No person shall enter any mill, factory, machine shop, ship yard, covered bridge, stable or other building, with a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of five dollars, if a notice in plain, legible characters, that no smoking is allowed therein is kept up in a conspicuous position over or near each principal entrance to such building or place, and whoever defaces, removes, or destroys any such notice, shall forfeit ten dollars. (Ib., Section 14.)

**Penalty for Kindling Fire on Land without Consent of Owner, Etc.**

SECTION 24. Whoever kindles a fire on land not his own, without consent of the owner, forfeits ten dollars; if such fire spreads and

damages the property of others, he forfeits not less than ten nor more than five hundred dollars; and in either case he shall stand committed until fine and costs are paid, or he shall be imprisoned not more than three years. (Ib., Section 15.) 54 Me. 256.

**Penalty for Kindling Fire with Intent to Injure Another, Etc.**

SECTION 25. Whoever, with intent to injure another, causes a fire to be kindled on his own or another's land, whereby the property of any other person is injured or destroyed, shall be fined not less than twenty, nor more than one thousand dollars, or imprisoned not less than three months, nor more than three years. (Ib., Section 16.) 54 Me. 256.

**Lawful Fires to Be Kindled at Suitable Time, Etc.**

SECTION 26. Whoever, for a lawful purpose, kindles a fire on his own land, shall do so at a suitable time and in a careful and prudent manner, and is liable, in an action on the case, to any person injured by his failure to comply with this provision. (Ib., Section 17.) 54 Me. 258, 62 Me. 290.

**Municipal Officers to Make Regulations Respecting Gunpowder, Explosive Oils and Substances — Penalty.**

SECTION 27. In every town the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine, and all other explosive and illuminating substances which such officers adjudge dangerous to the lives or safety of citizens; and no person shall keep any such article in any other quantity or manner than is prescribed in such regulations, under a penalty of not less than twenty nor more than one hundred dollars for each offence; all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure may be libeled according to law. (Ib., Section 20.)

See also Revised Statutes, Chapter 17, Section 8; Chapter 39, Section 28.

(NOTE. Burden on plaintiff to show neglect. The following cases discuss the whole question embraced in above sections: *Bachelder vs.*

Heagan, 18 Me. 32; Hewey *vs.* Nourse, 54 Me. 256; Sturgis *vs.* Robbins, 62 Me. 289.)

(See title "Explosives and Firearms.")

### **Persons Injured by Explosion May Recover Damages.**

SECTION 28. A person injured by the explosion of such articles in the possession of any person contrary to such regulations, has an action for damages against such possessor, or against the owner, if conusant of such neglect. (R. S., Chapter 26, Section 21.)

### **Power of Municipal Officer to Search for Gunpowder.**

SECTION 29. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town, to search for such articles supposed to be unlawfully concealed there. (Ib., Section 22.)

### **Regulations Not Be in Force until Published — Penalties, How Recovered and Appropriated.**

SECTION 30. The rules and regulations, established in any town, according to Section 20 of Chapter 26, Revised Statutes, shall not be in force until they have been published for three weeks successively in a newspaper in the county, or by posting attested copies of them in three public places in such town. Penalties provided for in this chapter may be recovered by complaint, indictment or action of debt, half to the town where the offence is committed and half to the prosecutor. (Ib., Sections 23, 24.)

### **Burning Bricks in Parts of a Town Prohibited by Vote — Nuisances.**

SECTION 31. A town, at its annual meeting, may prohibit the burning of bricks or the erecting of brick kilns within such parts thereof as they deem for the safety of the citizens or their property. And if any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brick kiln to be forthwith removed, at the expense of the owner thereof; and the offender forfeits not exceeding two hundred dollars to the town. And if said bricks or brick kiln are not removed before conviction the court may issue a warrant for the removal thereof, or stay it as provided in Chapter 17 of the Revised Statutes. (R. S., Chapter 17, Section 9.)

## INVESTIGATION OF CAUSES OF FIRES.

**Municipal Officers Shall Investigate Origin of All Fires and Insurance Commissioner Shall Be Notified — Commissioner Shall Have Right to Direct Investigation.**

SECTION 32. When property is destroyed or damaged by fire it shall be the duty of municipal officers in cities and towns to immediately notify the insurance commissioner of the same, and to investigate, or cause to be investigated, the cause, circumstances and origin of the fire, and especially to examine whether it was the result of carelessness or of design. The investigation shall be commenced within three days after the occurrence of the fire, not including the Lord's Day, and the insurance commissioner shall have the right to supervise and direct such investigation whenever he deems it expedient or necessary. (P. L., 1897, Chapter 267, Section 1.)

**Municipal Officers Shall File with Commissioner Statement of Facts Relating to Cause of Fire — Commissioner Shall Make Record, Which Shall Be Open to the Public.**

SECTION 33. When the municipal officers have completed their investigation, which shall be within two weeks after the occurrence of the fire, they shall immediately file with the insurance commissioner a written statement of all the facts relating to the cause, circumstances and origin of the fire; the kind, value and ownership of the property destroyed or damaged, and such other information as may be required by said commissioner. The insurance commissioner shall make a record of all fires investigated under this Act, together with all facts, statistics and circumstances connected therewith. Such record shall at all times be open to public inspection, and such portions of it as the commissioner deems expedient shall be published in his annual report to the governor and council. (Ib., Section 2.)

**Commissioner May Examine into Cause and Origin of All Fires — May Take Testimony on Oath — If Evidence Is Sufficient He Shall Cause Arrest of Person Charged with the Crime of Arson.**

SECTION 34. It shall be the duty of the insurance commissioner, whenever he deems it expedient or advisable, to examine or cause to be

examined, the cause, circumstances and origin of all fires occurring in the cities and towns within the State, of which he has knowledge, by which property is damaged or destroyed, and to specially examine and decide whether the same was the result of carelessness or design. The insurance commissioner shall, when in his opinion said proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters as to which an examination is herein required to be made, and may cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, he shall cause such person to be arrested and charged with such offence, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses, and all information obtained by him, including a copy of all pertinent and material testimony in the case. (Ib., Section 3.)

**Witnesses May Be Compelled to Attend Hearing—And Give Testimony under Oath—Commissioner May Enter Any Building When Fire Is in Progress—Investigations May Be Private.**

SECTION 35. The insurance commissioner, the deputy insurance commissioner and the municipal officers of cities and towns shall each have the powers of a trial justice for the purpose of summoning and compelling the attendance of witnesses before them or either of them, to testify in relation to any matter which is by the provisions of this Act a subject of inquiry and investigation. Said insurance commissioner, deputy insurance commissioner and municipal officers may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. Said insurance commissioner and his subordinates shall have authority, at all times of the day or night, in the performance of the duties imposed by this Act, to enter upon and examine any building or premises where a fire is in progress or has occurred, and other buildings or premises adjoining or near the same. All investigations held by or under the direction of the insurance commissioner, deputy insurance commissioner or the municipal officers may in their discretion be private, and persons other than those required to be present by the provisions of this Act may be excluded from the place where such investigation is held, and

witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined. (Ib., Section 4.)

**Duty of Insurance Companies to Report to Commissioner, Adjustment of All Losses.**

SECTION 36. It shall be the duty of every fire insurance company or association transacting business in this State to report to the insurance commissioner, within ten days after the adjustment of every loss, the amount of all policies issued by said company on the property destroyed or damaged, the amount paid or payable on account of such loss, and such other information relating to the matter as the commissioner may require. (Ib., Section 5.)

**Appropriation to Carry Out Provisions of This Act.**

SECTION 37. The insurance commissioner may employ such clerks and assistants, provide such blanks, and incur such expenses as may be necessary to carry out the provisions of this Act, not to exceed two thousand dollars in any year, and all bills and expenses incurred shall be audited by the governor and council. (Ib., Section 6.)

**Municipal Officers Shall Keep Record of Returns.**

SECTION 38. It shall be the duty of the municipal officers to record or cause to be recorded, in a book provided by the insurance commissioner, all returns made under the provisions of this Act. (Ib., Section 7.)

**Penalty for Neglect.**

SECTION 39. Any city or town officer, or any insurance company neglecting or refusing to perform any duty required by the provisions of this Act shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for each offence. (Ib., Section 8.)

**City Authorized to Retire and Pension Members of Fire Department.**

SECTION 40. The city council of the City of Portland is hereby authorized to provide by ordinance for the retirement, upon a pension not exceeding half pay, of members of the fire department who have served not less than twenty-five years in a position in the fire department, requiring them to give to its duties their whole time, and who have been honorably discharged by reason of age, or of permanent

physical incapacity which is the result of an incident of service. (Special Laws of 1897, Chapter 468.)

(For laws pertaining to inspection of buildings, see Chapter 11, page 118.)

(For laws pertaining to fire limits for buildings, see Section 3, page 126.)

(For laws pertaining to outer doors of public buildings and fire escapes, see Sections 17 and 18, page 123.)

## ORDINANCES.

### **Government of Fire Department — Fire Department, How Organized.**

SECTION 1. The fire department shall consist of a chief engineer, four assistant engineers, and as many enginemen, hosemen, hook and laddermen, and other persons, as the city council shall from time to time direct. The said engineers and enginemen shall be elected annually on the second Monday in December, but vacancies may be filled at any time. And the said engineers shall, on their election, receive a written or printed certificate or warrant in the following words, viz.: This certifies that ——— is elected ——— engineer (or engineman) of the fire department of the City of Portland, and is clothed with all the power and entitled to all the immunities belonging to said office.

Given under our hands this ——— day of ———, A. D. 19—.

———, Mayor.

———, City Clerk.

### **Chief Engineer, Duties of.**

SECTION 2. The chief engineer shall have the command of the entire fire department; he shall at all times, under the direction of the committee on fire department, supervise and keep in repair and ready for instant use, all the property of the city connected with the department. He shall certify all bills against the city, chargeable to said department. He shall attend all the fires in the city, and all orders issued by him to any member of the department shall be promptly obeyed.

He shall make all such rules and regulations, not repugnant to the State Laws or the City Ordinances, as he may deem advisable for



the government of the board of engineers, the conduct and control of the department, the efficiency and due subordination of its members, and the custody and preservation of the property attached to the department, subject to the approval of the committee on fire department.

He shall publish the rules and regulations adopted by him from time to time, and shall at all times keep a fair printed copy of such as are in force, posted in some conspicuous place in each engine, hose, and hook and ladder house, each of which houses he shall visit at least three times a week.

He shall see to the enforcement of all rules and regulations of the fire department. He shall decide summarily all disputes or questions arising out of matters connected with said department, among the officers and men when on duty.

He shall report annually to the city council the state of the department, the condition of the apparatus and buildings used by the department, together with the name, age, residence, and number of badge of each member of the department, a list of all fires in the city during the year, and such statistics and information regarding losses by fire, the causes of fire, its prevention or extinguishment, insurance, and topics bearing upon the department, as he may be able and think advisable to communicate. Said report shall be published annually in such manner as the city council shall direct.

He shall act as superintendent of hydrants, and under the direction of the committee on fire department shall cause all repairs, additions or alterations to the reservoirs or hydrants to be made.

He shall visit the places of all licensed dealers in gunpowder or other explosive substances, to see that the laws and ordinances relating thereto are conformed with.

It shall be his duty to examine premises where fire is at any time used, and where danger is apprehended therefrom; to examine all places where shavings or combustible materials, or ashes, may be collected or deposited, and to direct such alterations, repairs or removals to be made in such cases as may be required, whenever, in his opinion, the existing conditions are dangerous to the security of the city; and, in case of the neglect or refusal of the owner or occupant of such building to make or commence to make such alterations, repairs or removals within forty-eight hours after notice, the chief engineer shall make report thereof to the board of mayor and aldermen.

He may dispose of any unserviceable personal property belonging to the department in the manner prescribed by Section 16 of Chapter 15

of the Revised Ordinances of 1901. He shall consider and report in writing upon all matters relating to said department, which the city council or either branch thereof may refer to him.

#### **Assistant Engineers, Duties of.**

SECTION 3. Each assistant engineer shall obey all orders of the chief engineer, and shall at all times assist him in his duties. In case of the absence or disability of the chief engineer, the powers and duties conferred and imposed on him shall devolve on and be performed by the assistant engineers respectively, in the order of their seniority by election.

#### **Board of Engineers, How Constituted.**

SECTION 4. The chief and assistant engineers shall together constitute the board of engineers. A quorum of the board of engineers shall consist of a majority thereof.

The chief engineer, if present, shall preside at all meetings of the board; in the absence of the chief, the engineer next in rank present shall be the presiding officer.

#### **Board of Engineers, Organization.**

SECTION 5. The board shall elect one of its members to be clerk of the board, who shall be sworn to the faithful performance of his duties. He shall keep all the books necessary for the business of the department, which books shall always be open for the inspection of the members of the city council.

#### **Board of Engineers May Suspend Companies and Officers.**

SECTION 6. A majority of the board of engineers shall have full power to suspend from duty any company that shall wilfully neglect or refuse to do their duty, or shall be guilty of disorderly conduct, or disobedience to the orders of either of the engineers, or for violation of any of the rules and regulations of the department; they shall also have power to suspend at any time, for sufficient cause, any officer or member of the department, and whenever a company, officer or member shall be thus suspended by the board of engineers, they shall report the facts of the case to the committee on fire department for final action, unless they shall have reinstated such company, officer or member prior to the next meeting of said committee.

**Engine and Hook and Ladder Companies, How Constituted.**

SECTION 7. Engine companies shall consist of a captain, lieutenant, engineman, stoker, and as many hosemen as the city council and board of engineers shall deem sufficient. Hook and ladder companies and hose companies shall consist of a captain, lieutenant, and as many hook and ladder men and hosemen, respectively, as the city council and board of engineers shall deem sufficient.

**City Council May Form Fire Companies.**

SECTION 8. As many engine, hook and ladder and hose companies shall, from time to time, be formed by the city council as they may deem expedient. The selection of members for companies shall be made by the board of engineers, subject to the approval of the committee on fire department; and no person under the age of twenty-one years nor over the age of forty-five years shall be appointed a member of the fire department.

Whenever an appointed member shall arrive at the age of sixty, he shall be honorably discharged.

**Board of Engineers to Appoint Captains, Lieutenants.**

SECTION 9. Subject to the approval of the committee on fire department, the board of engineers shall appoint, annually, on the first Monday in May, or oftener if required in case of vacancy or dismissal from the department, a captain and a lieutenant, as provided for in Section 7, and such drivers as may be required by the department.

**Enginemen, Duties of—Stokers, Duties.**

SECTION 10. Each engineman shall give his entire time to the interest of the department, and shall always be at the engine house where his engine is kept, except when directed by the chief engineer to perform other duties or when allowed to be absent from said house by said chief engineer. When called to fires, he shall give his attention to his engine, and put the same in immediate condition for fire service. And when said service is completed, he shall at once put his engine in readiness for further calls. He shall report to the captain of the company all violations of the laws pertaining to said department committee in, or about, the engine house. In the absence of the permanent captain, and whenever for any reason there is no such captain, the engineman shall perform the duties and assume all the responsibilities

that are placed upon each captain by Section 11 of this ordinance. The chief engineer shall appoint a stoker for each engine company whose duty it shall be to assist the engineman of his company in working the engine, and to perform such other duties as the engineers or his engineman shall require of him.

#### **Permanent Captains, Duties of.**

SECTION 11. Each captain, permanently employed, shall give his entire time to the interest of the department. He shall always be at the engine house, excepting when directed by the chief engineer to perform other duties, or when allowed to be absent by said chief. It shall be his duty to exercise careful supervision over all property of the city committed to his charge. He shall have the same properly taken care of, and shall report to the chief engineer any deficiency, defect or want of repair therein as soon as known to him, and under the direction of said chief engineer shall make, or cause to be made, all needful alterations and repairs. All apparatus upon the premises used for the extinguishment of fire, and all property connected therewith shall be considered as under his charge, under the supervision of the chief engineer, to whom he shall be responsible for the safe keeping and effective condition of the same.

#### **Drivers, Duties of.**

SECTION 12. Drivers attached to the engines and other apparatus connected with the fire department shall, when on duty, obey the orders of the chief and assistant engineers, the captain, lieutenant, and engineman, in the order named, and comply strictly with the rules and regulations and directions of the board of engineers.

#### **Apparatus Not to Be Taken Out of City without Order of Mayor or Chief Engineer.**

SECTION 13. No property connected with the department shall be taken out of the city unless by order of the mayor or chief engineer, nor shall more than two engines, at any one time, be absent from the city.

#### **Parade of Department.**

SECTION 14. No public parade shall be made by the fire department or any portion of it, except by the consent of the board of engineers, and of the committee on fire department.

**Inspection of Fire Apparatus.**

SECTION 15. The board of engineers and the committee on fire department are required, twice in each municipal year, to inspect each engine and hose company and its apparatus, and each hook and ladder company and its trucks, and report any want of efficiency, that in their opinion may exist, to the city council.

**Intoxication, Disturbances, Etc.**

SECTION 16. If any member shall be guilty of carrying, or allowing any one to carry, intoxicating liquors of any kind into an engine, hose, or hook and ladder house, to be drank therein, or if any member shall become intoxicated, or endeavor in any manner at any time to create disturbance, or refuse to do his duty, the captain shall immediately report him to the board of engineers for his discharge from the department.

**Members Absent without Leave, and Members Neglecting Duties, to Be Discharged.**

SECTION 17. Any member of the department absenting himself from one-third of the fires that occur in six months, shall be discharged from the department for neglect of duty by the board of engineers, and any member neglecting or refusing to perform his duty, shall be immediately reported to the board of engineers; and any company or any member of the department doing duty by requirement or invitation from the chief or board of engineers or committee on fire department, shall act in strict conformity to the discipline as laid down in the ordinances, rules and regulations, and be subject to the penalties for non-compliance; and no company attached to the department shall leave any fire or take the apparatus of which they have charge therefrom, without permission of the chief engineer.

**Conduct Unbecoming a Fireman Cause for Discharge.**

SECTION 18. If any member in going to or returning from a fire, shall behave in any way unbecoming a fireman, any party who may be aggrieved may report to the chief engineer the number of said member's badge, and if said fireman refuses to give his number correctly, it shall be deemed good cause for his dismissal from the department.

**Compensation of Members of Department.**

SECTION 19. The compensation of the officers and members of the several fire engines and hook and ladder companies, shall be determined annually by the city council, and the same shall be in full for all services as members of the fire department, and shall cover all claims for clothing. Such compensation shall be paid quarterly in January, April, July and October, to each member of the respective companies, except enginemen and drivers who may be paid oftener. The captain of each company shall certify to the correctness of the pay rolls.

**Badges, Etc., of Fire Department Worn by Firemen Only.**

SECTION 20. If any person, not a member of the fire department, shall, when the fire department is on duty, wear any badge or other insignia, representing himself as a member of the fire department, he shall be punished by a fine not less than two nor more than five dollars for each offence.

**Penalty for False Alarm of Fire.**

SECTION 21. If any person shall wilfully or maliciously give or cause to be given, a false alarm or cry of fire by outcry or ringing an alarm bell or striking an alarm at any box of the fire telegraph, he shall be punished by a fine not less than twenty nor more than fifty dollars for each offence.

**Firearms Not to Be Discharged in City.**

SECTION 22. No person shall fire or discharge any gun, fowling piece or firearm within the limits of the City of Portland, under a penalty for every such offence of not less than one nor more than twenty dollars; provided, however, that this section shall not apply to the use of such weapons at any military exercise or review, or in the lawful defence of the person, family or property of any citizen.

**Fire Not to Be Carried from Place to Place.**

SECTION 23. No person shall carry fire from any house or place to any other house or place in the city, except in some covered pan or vessel and in such manner as to secure the fire from wind and from being scattered by the way. Whoever violates this ordinance shall be punished by a fine of not less than three dollars for each offence.

**Bonfires Not to Be Made.**

SECTION 24. Whoever makes any bonfire, or other fire, in any of the streets, squares, commons, lanes or alleys, or on any wharf within the city, shall be punished by a fine not exceeding twenty dollars.

(See page 292 of Revised Statutes. 1883, Section 12.)

**Brick Kilns Not to Be Erected without License.**

SECTION 25. No person shall erect, make or fire, or cause to be erected, made or fired, within any part of the city, any brick kiln, or lime kiln, without license of mayor in writing, designating the place of such kiln, under a penalty of not less than five nor more than twenty dollars, and a like sum for every week he shall continue such kiln, after notice to remove the same. (See also Revised Statutes, Chapter 17, Section 9.)

**Water Not to Be Taken from Reservoirs or Hydrants without Permission.**

SECTION 26. Whoever takes water from any reservoir or hydrant, belonging to the city, for any purpose whatever, except for the extinguishment of fires or the use of the fire department, without first having obtained permission in writing from the mayor or chief engineer of the fire department, shall be punished by a fine not less than five nor more than twenty dollars for each offence.

**Penalty for Driving over Hose.**

SECTION 27. Whoever drives any wagon, cart, railroad car, or other vehicle over hose belonging to the fire department of the City of Portland laid in the streets at the occurrence of any fire, or at any alarm of fire, shall be punished by a fine not less than ten nor more than fifty dollars, for each offence.

**Hydrants Not to Be Obstructed.**

SECTION 28. No person, when authorized by the mayor and aldermen to encumber any street with materials for building, or under any circumstances, shall deposit any materials or rubbish of any kind in such a manner as to interfere with the convenient use of any city reservoir or hydrant. Whoever violates this ordinance shall be punished by a fine not less than twenty nor exceeding fifty dollars for each offence. If any such reservoir or hydrant shall be so obstructed, the chief engineer shall at once cause the obstructions to be removed at the expense of the person or persons making such obstructions.

# FISH.

(See titles, "Clams," "Health," "Manures.")

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## CHAPTER 45.

# FLOUR.

### Statutes.

#### **Appointment of Flour Inspectors Authorized — Who Ineligible.**

SECTION 1. The municipal officers of towns may annually appoint in their towns, one or more suitable persons not interested in the manufacture and sale of flour, to be inspectors thereof, for one year from the date of appointment. (R. S., Chapter 38, Section 36.)

#### **To Be Sworn, Etc.**

SECTION 2. Such inspector before entering upon his duties shall be sworn to the faithful and impartial discharge thereof before the town clerk, who shall, upon payment of fifty cents, give him a certificate of his appointment and qualification, to be exhibited on the demand of any person interested in any inspection made by him. (Ib., Section 37.)

#### **Inspection, How Made — Duties of Inspectors Defined.**

SECTION 3. Inspection of flour shall be for the purpose of ascertaining its soundness; every package inspected shall be opened sufficiently to allow a trier to be passed through it, and a sample of the whole length of the passage shall be taken out and examined by the inspector, who shall mark upon each package with a brand, or stencil, the words "sound," or "unsound," as the quality of the flour contained in each is found, and his name, residence, office, and the year of inspection. He shall keep a record of all flour inspected by him, in a suitable book, which he shall exhibit to any person requiring it. (Ib., Section 38.)



**Penalty for Fraudulent Marks.**

SECTION 4. If an inspector falsely and fraudulently marks any package of flour he shall be fined five dollars for every such package, and forfeits to any person injured thereby, three times the amount of damage in an action of debt. (Ib., Section 39.)

**Penalty for Alteration of Marks.**

SECTION 5. Whoever, with intent to defraud, alters, obliterates or counterfeits the marks of an inspector, and whoever with such intent places upon any package of flour, marks falsely purporting to be inspection marks, shall, for every offence, be fined not exceeding fifty dollars, and on conviction of placing such false marks on as many as ten packages at one time, shall also be imprisoned not exceeding ten months. (Ib., Section 40.)

**Purchasers May Require Inspection.**

SECTION 6. The purchaser may require flour to be inspected before delivery. The inspectors' fees are five cents a package, for lots of less than ten; for lots of more than ten, and not exceeding twenty packages, two cents a package; and for every package exceeding twenty, one cent, to be paid by the person demanding inspection. (Ib., Section 41.)

**Duties in Regard to Sample Packages.**

SECTION 7. Inspectors shall, when required, determine whether the flour conforms to and equals the sample furnished and shall mark, with some distinct and intelligible mark, the packages that are found like the sample, and for this service they may charge an additional compensation of one-half cent a package. (Ib., Section 42.)

**Provisions Not Applicable When An Inspection Is Not Demanded.**

SECTION 8. Nothing herein contained prohibits any contract for the manufacture or sale of uninspected flour, when inspection is not required by the buyer or the seller. (Ib., Section 43.)

## **CHAPTER 46.**

# **GAS.**

### **Statutes.**

## **PORTLAND GAS LIGHT COMPANY.**

### **ACT OF INCORPORATION.**

#### **Corporators—Corporate Name—Powers and Duties.**

SECTION 1. Charles Q. Clapp, A. W. H. Clapp, John Neal, Abner Lowell, Francis O. J. Smith, Horace V. Bartol, and Henry B. McCobb, their associates and successors, are hereby constituted a body politic and corporate by the name of the Portland Gas Light Company, and by that name shall have and enjoy all the necessary powers and privileges to effect the objects of their association, and shall be subject to such duties, liabilities and exemptions as are or may be provided by the general laws of this State in case of manufacturing corporations. (Act 1849, Chapter 288. Approved Aug. 12, 1849.)

#### **Capital Stock—How Applied—Proviso—Liability for Injury to Private Property.**

SECTION 2. The capital stock of said company shall be not less than thirty thousand dollars nor more than one hundred thousand dollars, and shall be divided into shares of one hundred dollars each. The said capital stock shall be applied exclusively to the manufacture and distribution of gas for the purpose of lighting the City of Portland; provided, that said company shall not have power to erect, establish or continue any works for the manufacture of gas at any place within the limits of said City of Portland, without the previous assent of the city council, and a specific assignment of the boundaries of such establishment, and such erection, establishment or continuance without such previous consent, shall be considered a nuisance, and said company shall be liable to indictment therefor, and to all the provisions of law applicable thereto. And nothing contained in this Act shall be

construed to affect or diminish the liabilities of said company for any injury to private property, by depreciating the value thereof, or otherwise, but said company shall be liable therefor in an action on the case.

**Regulations for Laying down Pipes, Fixtures, Etc. — Liability to City for Damages.**

SECTION 3. The said company are hereby authorized to lay down in and through the streets of said city, and to take up, replace, and repair all such pipes and fixtures as may be necessary for the objects of their incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe. And any obstruction in any street of said city, or taking up or displacement of any portion of any street, without such consent of the city council, or contrary to the restrictions or regulations that may be prescribed as aforesaid, shall be considered a nuisance. And said company shall be liable to indictment therefor and to all the provisions of law applicable thereto. And said company shall in all cases be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city, for damages occasioned by any obstructions, or taking up or displacement of any street by said company whatever, with or without the consent of the city council, together with council fees and other expenses, incurred by said city in defending any suit to recover damages as aforesaid, with interest on the same, to be recovered in an action for money paid to the use of said company.

**Obstruction to Public Travel in Laying Down, Erecting or Repairing Works — Not to Obstruct or Impair the Use of Any Drain, Etc.**

SECTION 4. Whenever the company shall lay down any pipes, or erect any fixtures in any street, or make any alterations or repairs upon their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable. And shall at their own expense, without unnecessary delay, cause the earth and pavements removed by them to be replaced in proper condition. They shall not be allowed in any case to obstruct or impair the use of any public or private drain, or common sewer or reservoir, but said company shall have the right to cross, or where necessary to change the direction of any private drain, in such manner as not to obstruct or

impair the use thereof, being liable for any injury occasioned by any such crossing or alteration to the owner thereof, or any other person, in an action upon the case.

### **City Council Authorized to Contract for Lighting the Streets and Public Buildings.**

SECTION 5. The city council of the City of Portland are hereby authorized to contract with said company for lighting the streets and public buildings of said city, and the moneys necessary to be expended therefor shall be assessed and collected in the same manner as taxes for other purposes.

### **Exclusive Privileges Granted under Certain Conditions — Regulation of Price of Gas.**

SECTION 6. If the said company shall be duly organized within two years from the passage of this Act, and shall within that time have raised and expended at least ten thousand dollars for the objects of their incorporation, and shall have actually commenced the lighting of the city with gas, they shall then have and enjoy the franchise and privileges granted them by this Act exclusively, for the term of thirty years from the date of their organization, subject to the terms and limitations hereinafter prescribed, and subject to all such regulations and control as may, by law, be exercised over corporations by the judicial tribunals of this State; provided, and this grant is upon the condition, that said company should at all times, and within a reasonable time after request by the city council of Portland, supply with gas, to such an extent and in such a manner as may be required, any street or public buildings, at a fair and reasonable rate of payment therefor; and in case said parties cannot agree upon the rate of payment, said company shall be obliged to furnish said gas at a rate to be fixed by three disinterested persons, to be selected, one by each of said parties, and a third by the two thus selected, who shall be paid for their services by said parties equally, and if said company shall at any time refuse, or unreasonably neglect to comply with this condition, the exclusive privilege herein granted shall be of no effect.

### **Directors — Treasurer.**

SECTION 7. The management of the affairs of the company, and all expenditures made for the purposes authorized by this Act, shall be

directed by a board of directors, to be chosen annually, of such number as may be prescribed by the By-laws of the company. The accounts of the company shall be kept by a treasurer, who shall be chosen by the directors. The directors shall severally be sworn before the clerk of the corporation, to make true and faithful exhibits in their records of all expenditures directed or allowed by them for the purposes authorized by this Act. The treasurer shall in like manner be sworn to make and keep true and distinct accounts of all expenditures authorized by the directors, and paid by him from the funds of the company.

**City of Portland Authorized to Take and Hold Stock in Said Company—Amount Received for Such Stock to Be Paid Over to Other Stockholders—Value of the Shares Reduced Accordingly—Shares Created and Issued to City—How Represented—Rights and Privileges Void if Company Neglect to Comply within One Month.**

SECTION 8. At any time after the organization of the company, the City of Portland shall be authorized, upon a vote of the city council to that effect, to take and hold in the capital stock of the company, an amount not exceeding one-half thereof, upon paying to the company a like proportional part of the cost, up to such time, of all their buildings, works, fixtures, pipes, and other property, and ten per cent. of such proportional part in addition thereto. The amount so received by the company for the proportional part so taken by the city shall be distributed and paid over to the other stockholders, in proportion to their several interests, and the par value of the several shares held by them shall be reduced accordingly. The company shall, at the same time, create and issue to the city such a number of shares of the same par value, together with a fractional share, if necessary, as shall represent the whole amount paid by the city for the proportional part of the capital stock so taken. At all meetings of the stockholders of the company, the shares held by the city shall be represented by such agent as the city council may by vote, from time to time appoint, who shall be entitled to cast one vote for every share held by the city. And if said company shall neglect to comply with the provisions of this section for the space of one month after an offer and request from the mayor to that effect, all the rights and privileges of said company shall wholly cease and be of no effect.

**Authority of City to Take the Property of Said Company at Its Appraised Value after Thirty Years—Appraiser, How Appointed—Provision in Case Said Company Should Neglect or Refuse to Deliver Its Aforesaid Property to City.**

SECTION 9. At the expiration of the term of thirty years, named in Section 7 of this Act, the City of Portland shall be authorized upon the vote of the city council to that effect, to pay to said company the appraised value of their said buildings, works, pipes, fixtures, and other property, and upon such payment, may take and hold all said property, without any right, privilege or franchise remaining to said company, and may dispose of said property in such manner as the city council shall determine. For the purpose of making the valuation as aforesaid, the city council shall, within three months before the expiration of the thirty years aforesaid, give notice to the company and appoint two disinterested persons, and the company shall appoint two other disinterested persons, to be appraisers, and the four persons so appointed, shall appoint a fifth disinterested person to be one of the appraisers. If the company shall neglect or omit, for two months after the notice aforesaid, to appoint appraisers on its part, then the two appraisers appointed by the city council shall be authorized to make the appraisal, and the decision of the appraisers in either case, shall be final. And if said company shall neglect or refuse for the space of one month after an appraisal shall have been made in pursuance of the provisions of this section, and after said city shall have notified said company of its readiness to take said property at such appraisal, to deliver all its aforesaid property to said city, and to execute good and sufficient conveyances thereof then said city may take possession of said property and hold the same as is hereinbefore provided, being responsible to said company to pay the appraised value aforesaid, and no sale of said property, at any time by said company, in derogation of the rights of said city herein specified, shall be valid, and the rights and privileges of said company as a corporation shall wholly cease from and after their refusal as aforesaid.

(NOTE. By the provisions of Chapter 7 of the Special Acts of 1887, the franchise rights and privileges were extended a term of thirty years, subject to the same terms and conditions.)

**Exclusive Privileges Continued to Said Company for Twelve Years, in Case Said City Should Not Take the Property.**

SECTION 10. If the City of Portland shall not so pay for and take the property of the company, at the appraisal so made, then the franchise and privileges hereby granted to said company, shall be continued to them and shall be held and enjoyed by them exclusively, for a further term of twelve years after the expiration of the thirty years aforesaid, subject to the limitation prescribed in the Section 9 of this Act.

**Liability of Company for Wilfully or Negligently Leaving Obstructions in Any Street—Or for Neglecting to Repair Any Street, Etc.—Fine, How Collected and Applied—Liable for Personal Injury by Reason of Said Negligence, Etc.**

SECTION 11. If the said company or any of their servants or officers employed in effecting the objects of the company, shall wilfully or negligently place or leave any obstructions in any of the streets of Portland, beyond what is actually necessary in laying down, taking up and repairing their fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street, in which the earth or pavements may have been removed by them, the company shall be subject to indictment therefor, in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fine as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictments aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer injury in his person or property by reason of any such negligence, wilfulness or omission, he shall be entitled to recover damages of the company therefor, by an action on the case, in any court of competent jurisdiction.

**Rights of Mayor and Aldermen in Certain Cases.**

SECTION 12. The mayor and aldermen for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said corporation, which may in any manner affect the health, safety or convenience of the inhabitants of said city.

## ITEM II.

**AN ACT TO INCREASE THE CAPITAL STOCK OF THE  
PORTLAND GAS LIGHT COMPANY.****Capital Stock — Increase of Shares.**

SECTION 1. The Portland Gas Light Company is hereby authorized to increase its capital stock to the extent of one hundred thousand dollars, so that the whole capital stock of said company shall be two hundred thousand dollars, instead of the amount now established. The said additional capital shall be divided into shares of fifty dollars each, which shall be the established par value of the same. (Act, 1854, Chapter 203, March 8, 1854.)

**How Disposed of.**

SECTION 2. Whenever the directors of the company shall vote to issue any part of such additional shares, the same shall be first offered to and may be taken by the existing shareholders, in proportion to their several amounts of stock. The balance of any such issue not taken by existing shareholders, may be sold and disposed of by the directors, in such manner as they may deem most for the interest of the company. The said additional capital and shares shall be issued subject to the rights of the City of Portland, as herein provided.

**Rights of City of Portland — Same Subject.**

SECTION 3. If the City of Portland shall not, at the time of any issue of such capital stock, take its proportional number of shares thereof, the city council may at any time thereafter, by vote, determine to take for the city so many of the additional shares aforesaid as may be required to constitute the city the owner of one-half of all the said additional capital stock of the company.

**Shares to Be Numbered — Stock Issued Subject to the Provisions of This Act.**

SECTION 4. For the purpose of effecting the object provided by the last preceding section the directors of the company, whenever they shall issue any of the additional stock aforesaid, shall cause the shares thereof to be numbered consecutively, and the numbers of all the shares so issued to be expressed in the several certificates representing the same, and in the several shareholders' accounts on the stock books



of the company. The certificates of such additional stock shall also express that the shares therein represented are issued and held subject to the provisions of this Act.

**City Council Authorized to Take a Certain Number of Shares — Amount Per Share — Vote of City Council to Be Certified to Directors of Company, Etc. — Treasurer Authorized to Receive and Pay Over Purchase Money — Shall Issue Certificates of Shares.**

SECTION 5. Whenever the city council shall determine by vote as aforesaid, to take additional shares, as provided in the Section 3 of this Act, the city shall be entitled to take and become the owner of all the new shares issued as aforesaid, which are numbered by the even numbers, and shall thereupon pay to the treasurer of the company the sum of fifty-five dollars for every share so taken. The vote of the city council as aforesaid shall be certified to the directors of the company, and they shall cause the same to be recorded in their record. The treasurer shall receive the amount so paid by the city, and shall hold the same, subject to be paid to the order or receipt of the several persons from whom the said shares shall be so taken. He shall issue to the city certificates of the shares so taken and paid for by the city, and shall adjust the stock accounts of the several shareholders from whom the same are so taken accordingly, and issue to them, if required, new certificates representing the balance of their shares.

ITEM III.

**ACT TO FURTHER INCREASE CAPITAL STOCK.**

**Capital Stock Increased — Shares, Par Value of.**

SECTION 1. The Portland Gas Light Company is hereby authorized to increase its capital stock to the extent of two hundred thousand dollars, so that the whole capital stock of said company shall be four hundred thousand dollars, instead of the amount now established. The said additional capital stock shall be divided into shares of fifty dollars each, which shall be the established par value of the same. (Act, 1856, Chapter 544, February 5, 1856.)

**Stock First Offered to Existing Shareholders — Balance, How Disposed of — City of Portland, Rights of.**

SECTION 2. Whenever the directors of the company shall vote to issue any part of such additional shares, the same shall be first offered

to, and may be taken by the existing shareholders, in proportion to their several amounts of stock. The balance of any such issue not taken by existing stockholders, after twenty days' notice given in one of the daily newspapers published in the City of Portland, to the stockholders, may be sold and disposed of by the directors in such manner as they may deem most for the interest of the company. The said additional capital and shares shall be issued, subject to the rights of the City of Portland, as herein provided.

### **City Council May Make the City Joint Owner of Stock.**

SECTION 3. If the City of Portland, at the expiration of the twenty days aforesaid, shall not have taken its proportional number of shares thereof, the city council may, at any time thereafter, by vote, determine to take for the city, so many of the additional shares aforesaid, as may be required to constitute the city the owner of one-half of all the said additional stock of the company.

### **Directors, Duties of.**

SECTION 4. For the purpose of effecting the object provided by the last preceding section, the directors of the company, whenever they shall issue any of the additional stock aforesaid, shall cause the shares thereof to be numbered consecutively, and the numbers of all the shares so issued, to be expressed in the several certificates representing the same, and in the several shareholders' accounts on the stock books of the company. The certificates of such additional stock shall also express that the shares therein represented are issued and held subject to the provisions of this Act.

### **Ownership, Conditions of—Shares, Value of—Treasurer, Duties of.**

SECTION 5. Whenever the city council shall determine by vote as aforesaid, to take additional shares as provided in Section 3 of this Act, the city shall be entitled to take and become the owner of all the new shares issued as aforesaid, which are numbered by the even numbers, and shall thereupon pay to the treasurer of the company, the sum of fifty-five dollars for every share so taken. The vote of the city council as aforesaid, shall be certified to the directors of the company, and they shall cause the same to be recorded in their record. The treasurer shall receive the amount so paid by the city, and shall hold the same, subject to be paid to the order or receipt of the several persons from whom the

said shares shall be so taken. He shall issue to the city certificates of the shares so taken and paid for, and shall adjust the stock accounts of the several shareholders from whom the same are so taken accordingly, and issue to them, if required, new certificates representing the balance of their shares.

**Gas Company Authorized to Furnish Gas for Heating and Power.**

SECTION 6. All gaslight companies in this State, which are authorized to furnish gas for lighting, are hereby authorized to furnish gas for heating and for power and proper appliances therefor, under the same conditions and with the same rights as they are now authorized to furnish gas for lighting purposes. (P. L., 1895, Chapter 61.)

(For regulations in regard to laying pipes, see title "Streets.")

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**GUNPOWDER.**

(See title "Explosives and Firearms," page 305.)

## CHAPTER 47.

# HARBOR OF PORTLAND.

### Statutes.

#### RELATING TO PORTLAND HARBOR.

#### **The Boundaries of the Harbor of Portland Defined — Boundary Lines Changed by Act of 1881.**

SECTION 1. The harbor of Portland is bounded northwesterly by a line commencing at the eastern corner of the Gas Company's wharf, next above the Portland bridge, and extending straight to the southern corner of the end of Robinson's wharf, and along the end of it to the eastern corner; thence straight to the southern corner of the end of Central wharf, and along the end of it to the eastern corner; thence straight to the southern corner of the end of Custom House wharf, and along the end of it to the eastern corner; thence straight to the southern corner of the end of Railway wharf, and along the end of it to the eastern corner; thence to the southern corner of the end of St. Lawrence wharf, and along the end of it to the eastern corner; thence parallel to the straight portion of the outside railroad track, to the shoals to the southward of Fish Point, as defined on the plan of Portland harbor, made by the United States Coast Survey, in the year 1853. (Act, 1856, Chapter 654, Section 1. Approved February 24.)

#### **Boundaries East of Galt's Wharf.**

(NOTE. That portion of the harbor commissioners' line in Portland harbor, established in the year 1856, lying easterly of Galt's wharf, so called, is hereby changed and established to run as follows: Starting at a point located at the southeast corner of Galt's wharf, at the junction of the straight southerly face with the curve forming this round corner of said wharf, marked by a composition spike, driven into cap timber about one and one-half inches from its outer edge. By reference to two fixed points, marked by copper bolts, and called the east and west base, the former on the outer pier of Portland breakwater, the latter thirty-eight and five-tenths feet west of the shore end of the same, the starting point is permanently located as follows: Angle at west base, between Galt's wharf and east base, eighty-six degrees, seven minutes. Angle at east base, between Galt's

wharf and west base, fifty-six degrees, three minutes. Distance from west base to Galt's wharf, composition spike, two thousand six hundred ninety and thirty-four one-hundredths feet. Distance from east base to Galt's wharf, composition spike, three thousand two hundred thirty-five and seventy-eight one-hundredths feet. Starting from the point on Galt's wharf, located and described as above, the line runs northeasterly, making an angle of fifty-six degrees, five minutes, with the east base, for a distance of three thousand one hundred and ninety feet, to a point lying in the prolongation of the northeasterly side of the easterly Great Eastern wharf, so called, and three hundred and fifteen feet distant from the southeasterly corner of said wharf; thence northerly and tangent to the curved harbor commissioners' line around Fish Point, established by the commission of eighteen hundred and sixty-eight. Special Laws of 1881, Chapter 61.)

### **Bounds of Portland Harbor.**

SECTION 2. It is bounded southeasterly between Portland bridge and the breakwater, beginning at a point marked A on the plan accompanying the report of the advisory council called by the commissioners of Portland Harbor, Maine, showing harbor lines in Fore river made in July, 1873, said point (A) being on the westerly side of Portland bridge in line with the sea wall of the Dry Dock Company's wall extended, from this point (A) the line runs in a northeasterly direction making an angle to the right from said Portland bridge of eighty-five degrees and thirty-eight minutes, a distance of five thousand three hundred and thirty feet to a point nearly opposite the western end of the breakwater; thence in a more southerly direction about one thousand eight hundred and thirty feet to the center of the lighthouse at the easterly end of said breakwater. (Special Laws, 1895, Chapter 30.)

### **Wharves, Etc., Not to be Extended beyond Said Lines or Materials Deposited in Said Harbor, or Land Removed — Abatement of Such Erections, Etc.**

SECTION 3. No wharf or incumbrance of any kind shall ever hereafter be erected or extended into said harbor beyond either of said lines. No stones or other materials shall be deposited in said harbor. No land within the same covered with water shall be removed without the written permission of the commissioners hereafter named. Every erection, incumbrance or material, erected, placed or deposited in said harbor, within the lines aforesaid shall be deemed a public nuisance liable to abatement. (Ib., Section 3.)

**Atlantic and St. Lawrence Railroad Company Authorized to Construct Wharves.**

SECTION 4. The Atlantic and St. Lawrence Railroad Company and its lessees are hereby authorized to build and maintain, in the waters of Portland harbor and in front of any lands now owned or leased, a wharf or wharves extending into said waters to a distance not exceeding two hundred feet beyond the line eastward of Galt's wharf, provided that the consent of the harbor commissioners of Portland or the city council of Portland shall first be obtained. (Special Laws of 1881, Chapter 14.)

**No Wharf Shall Be Extended beyond Harbor Commissioner's Line.**

SECTION 5. No existing wharf in Portland shall be extended into the harbor a greater distance below low water mark than the same now exists, and hereafter no such new wharf shall be extended below low water mark into the harbor without in either case the written assent of the mayor and aldermen. No wharf or incumbrance shall hereafter be erected or extended into said harbor beyond the harbor commissioners's line. (City Charter, Section 22.)

**Receiving Basins and Reservoirs of Said Harbor Defined — Subject to Control of Commissioners — Erections, Etc., Therein, without Written Permission of Commissioners Prohibited — Such Permission to Be Deposited and Recorded.**

SECTION 6. The receiving basins and reservoirs of said harbor shall comprehend the tidal waters of Fore river and Back Cove, and those along the shore northeasterly to the easterly side of the mouth of the Presumpscot river. They shall be and hereby are subjected to the control and regulations of the commissioners hereafter named. No erection, incumbrance or material, shall hereafter be placed or deposited in those waters, which will obstruct the flow and ebb of those waters, or diminish the volume thereof, without the written permission of said commissioners, or of a major part of them, therein describing the extent and character of the erection or deposit so permitted. Such permission by them subscribed shall be left with the clerk of the City of Portland, to be by him recorded before any such erection, obstruction or deposit is made. All erections, obstructions or deposits, made contrary to these provisions, are to be deemed public nuisances and liable to abatement. (Ib., Section 4.)

**Prosecutions and Punishment for Violations of This Act.**

SECTION 7. Any person who shall offend against any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and liable to prosecution therefore, by indictment in any court of competent jurisdiction, and on conviction, be punished by a fine not exceeding five hundred dollars; and he may also be sentenced to pay all expenses for an abatement or removal of such erection, obstruction or deposit made by him, and to stand committed until he shall pay the same, or give satisfactory security therefor. (Ib., Section 5.)

**Appointment of Commissioners — Terms of Their Office.**

SECTION 8. The governor shall nominate, and with the advice and consent of the council, appoint three persons commissioners of the harbor and tidal waters connected therewith, of the City of Portland. One of those first appointed shall continue in office one year, one for two, and the other for three years. At the expiration of each person's term of service, the same or another person shall in like manner be appointed to serve for three years. When a vacancy shall happen by death, resignation, or removal from the State, another person shall in like manner be appointed in his place to continue in service to the end of his term. (Ib., Section 6.)

**Supreme Judicial Court May Issue Writ of Injunction — May on Hearing Dissolve, Continue or Make Injunction Perpetual — Costs of Injunction, by Whom to Be Paid.**

SECTION 9. Whenever on application of the mayor and aldermen of the City of Portland, or of the commissioners of the harbor of Portland, it shall be made to appear to the Supreme Judicial Court at any term thereof holden in said city, or to any justice thereof out of such term time, that any person or persons are violating the provisions of an Act to preserve the harbor of Portland, approved April 3, 1856, such court or justice may forthwith issue a writ of injunction to stay all proceedings adjudged to be in violation of said Act until further order, and may on a hearing, dissolve, continue or make such injunction perpetual as justice may require, and may adjudge that the person or persons so violating the law shall pay all costs and expenses of such proceedings, and so much thereof as shall not be thus paid, shall be paid by the City of Portland. (Act, 1858, Chapter 151.)

**Commissioners' Powers Extended — Restrictions and Penalties.**

SECTION 10. All the powers heretofore conferred upon the commissioners of the harbor of Portland, over the receiving basins and reservoirs of said harbor, are hereby extended over the tidal waters southerly and easterly of the lines of said harbor, so far as the jurisdiction of this State extends, including all channels and entrances into said harbor; and all acts forbidden to be done within the bounds of said basins and reservoirs are forbidden to be done within the bounds herein designated, under the like restrictions and penalties and with like modes of redress as provided by the former and present Acts. (Ib., Chapter 161, Section 1.)

**Compensation of Commissioners.**

SECTION 11. The commissioners shall be entitled to receive from the City of Portland a reasonable compensation for all services actually performed. (R. S., 1856, Chapter 654, Section 7. Act of 1874.)

**Harbor Lines on Fore River, Portland Harbor — Lines on the Northerly Side of the River — Southerly Side, Section One — Southerly Side, Section Two.**

SECTION 12. The following lines are hereby established as the harbor lines in Fore river of Portland harbor, as defined on the plan of the same accompanying the report of the advisory council called by the commissioners on Portland harbor, in the year 1873, to wit: "The line on the northerly side of the river begins at the termination of the harbor line of 1855, at the southwesterly corner of the pile wharf of the gas company, marked 'A' on said plan and runs southwesterly in a straight line to the outer angle of the stone wharf, next westwardly from the said pile wharf, marked 'B' on said plan; thence westwardly in a straight line to the southeasterly corner of the solid abutment at the northerly end of the eastern railroad bridge, marked 'C' on said plan; thence westwardly in a straight line to the southwesterly corner of the pile wharf of the plaster mill, marked 'D' on said plan; thence westwardly, more northerly, in a straight line, at an angle of one hundred and seventy-three degrees and thirty-five minutes with the last named line, a distance of eight hundred feet to a point marked 'E' on said plan; thence westwardly more northerly, in a straight line, at an angle of one hundred and seventy-eight degrees and fifty-five minutes with the last named line, a distance of eight hundred feet, to a point



marked 'F' on said plan; thence westwardly, more southerly, in a straight line, at an angle of one hundred and seventy-six degrees and forty-five minutes with the last named line, a distance of six hundred feet, to a point marked 'G' on said plan; thence westwardly, more southerly, in a straight line at an angle of one hundred and sixty-six degrees with the last named line, a distance of six hundred feet, to a point marked 'H' on said plan; thence westwardly, still more southerly, in a straight line, at an angle of one hundred and seventy-one degrees and ten minutes with the last named line, a distance of six hundred and fifteen feet, to a point marked 'I' on said plan; thence northwestwardly, on an arc of a circle of three hundred and forty feet radius, of which the last named line is tangent, a distance of about five hundred and eighty-three feet, to a point marked 'J' on said plan; thence northerly, in a straight line tangent to said circle, to a point on the southeasterly side of the Boston & Maine railroad bridge, distant two hundred feet southwesterly from the stone sea wall at the northeasterly end of said bridge, measuring along the easterly side thereof, to a point marked 'K' on said plan. The lines on the southerly side of the river are located in two sections. In section one, beginning at a point marked 'A' on said plan, on the westerly side of Portland bridge in line with the sea wall of the Dry Dock company's wall extended, which point corresponds with the point of intersection of the commissioners' line of 1855; with the said westerly side of said bridge; the line runs southwesterly in a straight line at an angle of one hundred and six degrees and forty-six minutes with said westerly side of said bridge, a distance of six hundred feet to a point marked 'B' on said plan; thence more westerly, in a straight line, at an angle of one hundred and sixty-three degrees and forty-five minutes with the last named line, a distance of six hundred feet to a point marked 'C' on plan; thence still more westerly, in a straight line at an angle of one hundred and sixty-four degrees and fifty-five minutes with the last named line, a distance of six hundred feet to a point marked 'D' on said plan; thence westerly, in a straight line, to the westerly corner of the solid abutment on the southerly end of the Eastern railroad bridge, marked 'E' on said plan; thence westerly, in a straight line, at an angle of one hundred and thirty-seven degrees and ten minutes with the westerly side of said railroad bridge, a distance of one thousand feet, to a point marked 'F' on said plan; thence westerly, more southerly, in a straight line, at an angle of one hundred and seventy-two degrees and forty-five minutes with the last named line, a distance of six hundred feet, to a

point marked 'G' on said plan; thence westerly, more southerly, in a straight line, at an angle of one hundred and forty-one degrees and thirty minutes with the last named line, a distance of six hundred feet to a point marked 'H' on said plan; thence southerly, in a straight line, at an angle of one hundred and forty-four degrees and ten minutes with the last named line, a distance of one hundred feet, to a point marked 'I' on said plan. On section two, beginning at a point marked 'K' on said plan, at the northerly corner of the solid abutment on the westerly end of the Boston & Maine railroad bridge, the line runs southerly in a straight line, to the northwesterly corner of the rolling Mills bridge, marked 'L' on said plan; thence southeasterly, in a straight line, to a point on the southeasterly side of Vaughan's bridge, distant three hundred and forty feet southwesterly from the easterly corner of the abutment on the southerly side of the draw-way opening in said bridge, marked 'M' on said plan; thence southerly, more easterly, in a straight line, at an angle of one hundred and fifty-seven degrees and thirty-five minutes with the last named line, a distance of six hundred and fifteen feet, to a point marked 'N' on said plan; thence in a straight line easterly, at an angle of one hundred and fifty-five degrees and five minutes with the last named line, a distance of six hundred feet, to a point marked 'O' on said plan; thence in a straight line easterly, a little northerly, at an angle of one hundred and sixty-one degrees and ten minutes with the last named line, a distance of six hundred feet, to a point marked 'P' on said plan; thence in a straight line easterly, more southerly, at an angle of one hundred and fifty degrees and thirty minutes with the last named line, a distance of six hundred feet, to a point marked 'Q' on said plan; thence in a straight line southerly, at an angle of one hundred and thirty-eight degrees and forty minutes with the last named line, a distance of six hundred feet, to a point marked 'R' on said plan." (Act, 1874, Chapter 554.)

**No Wharves to Extend beyond Harbor Lines — Wharves, Etc., within Harbor to Be Built by Permission of Harbor Commissioners — Permission Recorded with City Clerk.**

SECTION 13. No wharf or incumbrance of any kind shall hereafter, be erected or extended into said Fore river, beyond either of said lines; and no wharf, erection, incumbrance, alteration or enlargement of any wharf, erection or incumbrance heretofore made, built or erected, shall hereafter be made between the lines of Portland harbor, as heretofore

established, and high water mark, or within the lines established by this Act and high water mark, without the written permission of the commissioners of the harbor and tidal waters of the City of Portland, therein describing the extent and character of the work so permitted; such permission by them subscribed shall be left with the clerk of the City of Portland, to be by him recorded, before such work shall be commenced. Any wharf, erection, incumbrance or alteration, or enlargement of the same, made contrary to these provisions, shall be deemed a public nuisance and liable to abatement. (Ib., Section 2.)

### **Existing Remedies Extended.**

SECTION 14. All remedies by indictment, injunction or otherwise, heretofore existing, and given for violation of any provisions of law relating to Portland Harbor, are hereby extended to violations of the provisions of this Act, and this Act shall not be held to repeal any previous Act relating to said harbor, or in any manner to abridge the powers of said commissioner over the same. (Ib., Section 3.)

### **Chapter 78, Laws of 1876, Shall Not Apply to Portland Harbor.**

SECTION 15. Chapter 78 of the Public Laws of 1876, shall not apply to Portland harbor or to the harbor commissioners of Portland harbor. (Act, 1877, Chapter 383.)

### **Chapter 654 of 1856, and Chapter 554 of 1874, Continued in Force—Power of Harbor Commissioners.**

SECTION 16. Chapter 654 of the Special Laws of 1856, being "An Act to preserve the harbor of Portland," and Chapter 554 of the Special Laws of 1874, being "An Act to establish the line of Portland harbor in Fore river," shall continue in full force and effect, and said harbor commissioners shall continue to exercise all the powers conferred upon them by said Special Laws, and shall have and exercise all the powers which are conferred upon the municipal officers of towns by said Chapter 78. (Ib.)

### **Atlantic and St. Lawrence Wharves East of Galt's Wharf to Be Permitted to Go beyond Commissioners' Line.**

SECTION 17. The Atlantic and St. Lawrence Railroad Company and its lessees are hereby authorized to build and maintain, in the waters of Portland harbor, and in front of any lands now owned or

leased by said parties, or which may be hereafter purchased or leased, a wharf or wharves extending into said waters to a distance not exceeding two hundred feet beyond the harbor line eastward of Galt's wharf, provided that the consent of the harbor commissioners of Portland or the city council of Portland, shall first be obtained. (Act, 1881, February 4.)

### **Municipal Officers Authorized to Make Rules for Passage of Vessels in Harbor.**

SECTION 18. The municipal authorities of all maritime towns and plantations may make rules and regulations for the keeping open of convenient channels for the passage of vessels in the harbors and waterways of the towns for which they act, and may establish the boundary lines of such channels, and assign suitable portions of their harbors for anchorages. (P. L., 1901, Chapter 259, Section 1.)

### **Rules Shall Be Enforced By Harbor Master.**

SECTION 19. Such rules and regulations as may be made by such municipal authorities shall be enforced and carried out by the harbor master of said town, who may appoint a deputy to act in case of his absence or disability. (Ib., Section 2.)

### **Vessels Obstructing Channel, to Be Moved.**

SECTION 20. Such harbor master shall, upon complaint to him by the master, owner or agent of any vessel, cause any other vessel or vessels obstructing the free movement or safe anchorage of such vessel, to remove to a position to be designated by him, and to cause, without any complaint being made to him, any vessels anchoring within the channel lines as established by the municipal authorities as provided in Section 1 of this Act, to remove to such anchorage as he may designate. (Ib., Section 3.)

### **Harbor Master May Put Crew on Vessel to Assist in Moving Such Vessels.**

SECTION 21. If such vessel has no crew on board, or if the master or other person in charge neglects or refuses to remove such vessel as directed by the harbor master, then and in that case such harbor master may put a suitable crew on board and move such vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners thereof, and shall charge two dollars, to be paid by the master or

owner of such vessel, which charge together with the cost of the crew for removing such vessel the harbor master may collect by suit. (Ib., Section 4.)

**Harbor Master Authorized to Make Arrests for Assault When Enforcing Act.**

SECTION 22. Harbor masters may, when assault is committed either upon themselves or any person acting under their authority, arrest and deliver to the police authorities on shore any person committing such assault. (Ib., Section 5.)

**Penalty for Throwing Ballast in Harbor.**

SECTION 23. No master of any vessel shall throw overboard ballast in any road, port or harbor, under a penalty of sixty dollars. (R. S., Chapter 36, Section 22.)

(See also "Back Cove and Fore River," page 96.)

(For matters pertaining to quarantine see "Health," *post.*)

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ORDINANCES.

**Harbor Master to Be Appointed — To Be Sworn — Compensation.**

SECTION 1. There shall be elected annually, on the second Monday of the month of December, or as soon thereafter as may be, by the city council in convention, an able and discreet person, to be styled the harbor master, who shall hold said office until removed, or a successor appointed; and he shall be sworn to the faithful performance of his duty. He shall receive such compensation for his services as the city council shall establish, and shall be removed at their pleasure; and in case said office shall be vacant at any time such vacancy shall be filled forthwith, in the manner prescribed.

**Duties of Harbor Master.**

SECTION 2. It shall be the duty of the harbor master to take charge and see to the preservation of the harbor, within the limits of the City of Portland, and extending to low water mark on the shore of Cape Elizabeth, and to enforce all such rules and regulations as may be ordained or ordered by the city council or mayor and aldermen from time to time, with reference thereto, and to collect all penalties that may be incurred by a violation of the same.

**Stones, Etc., Not to Be Thrown into Harbor.**

SECTION 3. No person shall throw or deposit, or cause to be thrown or deposited in said harbor, any stones, gravel, cinders, ashes, dirt, mud, or other substance, which may in any respect tend to injure the navigation thereof. And no person shall throw or cast any dead animal, or any foul or offensive matter in any dock or place between the channel and the shore, nor shall land any foul or offensive animal, or vegetable substance within the city, nor shall cast any dead animal in the waters of the harbor or Back Cove. Any person violating the foregoing provisions of this section shall for each offence be liable to a penalty of fifty dollars. (See also R. S., Chapter 36, Section 22.)

**Rules and Regulations to Be Established by the Board of Mayor and Aldermen.**

SECTION 4. The board of mayor and aldermen shall establish such rules and regulations as they may from time to time deem necessary for the government of the harbor master, and management of vessels in said harbor.

**Penalty for Violation of Preceding Rules.**

SECTION 5. If any of the rules and regulations thus established shall be violated, the master or owner of the vessel, by means of which said violation shall occur, shall for each offence be subject to a penalty of twenty dollars.

**Vessels Anchored Contrary to Rules — Notice to Be Given to Master, Etc., of Vessel — Vessels to Be Removed at Owner's Expense — Penalties.**

SECTION 6. If any vessel shall be anchored contrary to any of the rules and regulations provided for in the preceding section, the harbor master shall forthwith give notice to the master or owner thereof to remove said vessel at once; and if the same is not done without delay, or in case there is not a sufficient crew on board for that purpose, the harbor master shall cause such vessel to be removed at the expense of the owner or master thereof. And if the master or owner shall neglect or refuse to pay said expense on demand being made therefor by the harbor master, he shall be liable to a penalty of double the amount of such expense, in addition to the penalty provided in the preceding section.

## RULES AND REGULATIONS OF BOARD OF MAYOR AND ALDERMEN.

### Rules for Regulation and Management of Vessels.

SECTION 1. The following rules are adopted for the regulation and management of vessels in said harbor, viz.:

RULE 1. All of Portland harbor west of what is called "Hog Island Roads" shall be denominated the upper harbor, and all vessels in said upper harbor shall be anchored according to the following rules under the direction of the harbor master:

RULE 2. All vessels entering the upper harbor, not intending to be conveyed to some wharf immediately, shall be anchored on the southerly side of a line ranging with the black buoy off the breakwater, and a white buoy on a westerly course, thence on a line ranging with said white buoy and the southeasterly end of the draw of Portland bridge. No vessel exceeding one hundred and fifty tons burden shall anchor above the line of the Portland & Cape Elizabeth Ferry drawn from wharf to wharf at the northerly end of same.

RULE 3. Outward bound vessels shall be anchored on the northerly side of a line ranging from the easterly corner of the English steamers' coal wharf, so called, and the southerly corner of Fort Gorges, said line being marked by white buoys.

RULE 4. Vessels anchoring in "Hog Island Roads" shall anchor on the easterly side of a line ranging with the southerly side of Fort Gorges and the "Bay View House" on Peaks Island, or on the southerly side of a line ranging with the Observatory in Greenwood Garden, on Peaks Island, and the easterly end of House Island.

RULE 5. Vessels may be anchored south of a line ranging with the black buoy off Spring Point Ledge, and the black buoy off the breakwater.

RULE 6. No vessel shall be anchored in the channel of the harbor so as to obstruct the free passage of the regular lines of steamers running to and from this port, the island steamers, the ferry boat, or the entrances to the Marine Railway and Dry Dock.

RULE 7. All vessels at anchor in the harbor shall display a distinct white light forward not less than six feet above the forecastle deck during the night. All vessels at anchor shall keep their foresails furled during the night.

**RULE 8.** Vessels ordered to quarantine shall be anchored on the northeasterly side of a line ranging with the United States Marine Hospital and Fort Gorges, which anchorage shall be designated as the "Quarantine Anchorage."

**RULE 9.** All steamers passing up and down the harbor, near the ends of the wharves, shall run at a low rate of speed.

**RULE 10.** All vessels lying across the end of any wharf, shall rig in their jib booms, or lay so that they shall not project over to obstruct the free passage of vessels to or from either side of the wharf.

**RULE 11.** Vessels lying at the side of wharves, so as to obstruct the passage to adjoining wharves, must move when necessary to accommodate other vessels entering or leaving the docks.

**RULE 12.** Light vessels lying alongside of a wharf and not taking in or discharging cargo, must make way for, and permit other vessels that want to load or unload cargo, to come inside next to the wharf.

**RULE 13.** When fasts of vessels extend across a dock so as to obstruct passing vessels, the captain or person in charge shall cause the fasts to be slackened or cast off.

**RULE 14.** If any vessel occupying a berth at any wharf, either with or without the consent of the wharfinger thereof, shall fail to vacate such berth upon notice from such wharfinger or his agent, to the master or those having such vessel in charge for the time being, in a reasonable time, to be adjudged by the harbor master, the harbor master shall then cause such vessel to be moved to some other berth, or anchored in the stream, the expense thereof to be paid by the owners of said vessel.

**RULE 15.** All square-rigged vessels shall cockbill their lower yards, brace their topsail and topgallant yards fore and aft, and rig in their jib booms, when directed by the harbor master to do so.

**RULE 16.** All schooners, sloops and other water craft of two and one-half tons measurement and over, shall display proper green and red lights at night when under way.

All schooners, sloops and other boats, under two and one-half tons, including row boats, shall display at night a white light at least two feet above the stem while in motion.



## **CHAPTER 48.**

# **HAY.**

### **Statutes.**

#### **Pressed Hay Shall Be Marked with Name of Person Putting up Same.**

SECTION 1. All hay pressed and put up in bundles, except hay pressed by farmers and retailed from their own barns, shall have the first letter of the Christian, and the whole of the surname of the person putting up the same written, printed or stamped on bands or boards made fast thereto, with the name of the State and the place where such person lives. Whoever offers for sale or shipment any pressed hay not marked as aforesaid, except hay pressed by farmers and retailed from their own barns, forfeits one dollar for each bale, to be recovered by complaint. (R. S., Chapter 38, Section 55.)

(See 32 Me. 448, 46 Me. 200, 54 Me. 147, 64 Me. 389, 397, 71 Me. 82.)

#### **Penalty for Taking Unmarked Hay on Board Vessels.**

SECTION 2. If the master of any vessel takes on board pressed hay not marked as aforesaid, he shall forfeit one dollar for each bundle so received, to be recovered by complaint. (Ib.)

#### **City May Keep Scales and Fix Fees.**

SECTION 3. Any city may purchase and keep for use scales for weighing hay and other articles, appoint weighers and fix their fees, to be paid by purchaser. (R. S., Chapter 43, Section 5.) 37 Me. 88, 60 Me. 470.

(See also "Weights and Measures.")

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### **ORDINANCES.**

#### **Weighers of Hay to Be Chosen — Their Duty — Bonds to Be Given — Compensation.**

SECTION 1. There shall be elected annually, on the second Monday of December, or as soon thereafter as may be, by the city council, one

or more weighers of hay, who shall have the care and control of the city hay scales, and whose duty it shall be to weigh all hay and straw brought into the City of Portland for sale, and such other articles as may be offered to be weighed. They shall give bonds to the city in such sum as the mayor and aldermen may require, for the faithful performance of their duty, and shall conform to such regulations as may from time to time be adopted by the city council, and shall receive such compensation as they shall deem just and reasonable, to be paid out of the moneys received as fees for weighing hay and other articles.

**Hay or Straw Not to Be Sold without Being Weighed — Penalty.**

SECTION 2. No person shall sell or offer for sale any hay or straw without having the same weighed by the city weigher of hay, and a ticket signed by said weigher certifying the quantity each load, bale or parcel contains, on penalty of forfeiting the hay or straw so sold or offered for sale to the use of the city; or the owner or driver of such hay or straw shall forfeit and pay, to the use of the city, a sum not less than five dollars for each load of hay or straw sold or offered for sale without having complied with the provisions of this ordinance, at the discretion of the court before whom such case may be tried.

**Weighing Hay without Authority — Penalty.**

SECTION 3. Any person not authorized as a weigher of hay in accordance with the provisions of Section 1 of this ordinance, who shall weigh any hay or straw brought into this city for sale or shall permit or allow such hay or straw to be weighed upon any scales belonging to him or them, shall forfeit and pay a sum not exceeding twenty dollars to the use of the city.

**Fees for Weighing.**

SECTION 4. The weigher of hay shall be allowed to demand and receive from any person offering any hay, straw, or other article to be weighed upon the city hay scales, the sum of thirty cents for each load or other article so weighed, which sum shall include the weighing of the cart, wagon or other vehicle upon which a load has been weighed by said weigher.

**Hay Pressed and in Bundles Need Not Be Weighed.**

SECTION 5. The provisions of this ordinance shall not apply to hay pressed and put up into bundles or bales, as required by law, intended for shipment or for sale without being re-weighed in this city.

## **CHAPTER 49.**

# **HEALTH.**

### **Statutes.**

#### **CONTAGIOUS DISEASES.**

#### **Precautions against Infected Persons.**

SECTION 1. When any person is, or has recently been infected with any disease or sickness dangerous to the public health, the local board of health of the town where he is, shall provide for the safety of the inhabitants, as they think best, by removing him to a separate house, if it can be done without great danger to his health, and by providing nurses and other assistants and necessaries, at his charge or that of his parent or master, if able, otherwise at that of the town to which he belongs. Such expenses must be borne by town. (R. S., Chapter 14, Section 1.) 19 Me. 221, 28 Me. 257, 45 Me. 409, 52 Me. 119, 66 Me. 60 71, 67 Me. 371.

#### **Precautions against Persons Arriving from Infected Places.**

SECTION 2. When any infectious or malignant distemper is known to exist in any place out of the State, the local board of health of any town in the State may, by giving such public notice therein as they find convenient, require any person coming from such place to inform one of them or the town clerk of his arrival and from what place he came, and if he does not, within two hours after arrival, or after actual notice of such requirement, give such information, he forfeits one hundred dollars to the town. (Ib., Section 2.)

#### **Restrictions on Such Persons; May Be Removed if Refractory — Penalty if They Return.**

SECTION 3. Said local board of health may prohibit any such person from going to any part of their town where they think that his presence would be unsafe for the inhabitants; and if he does not comply, they may order him, unless disabled by sickness, forthwith to

leave the State in the manner and by the road which they direct; and if he neglects or refuses so to do, any justice of the peace in the county, on complaint of either of said local board of health, may issue his warrant to any proper officer or other person named therein, and cause him to be removed from the State; and if during the prevalence of such distemper, in the place where he resides, he returns to any town in this State without the license of its local board of health he forfeits not exceeding four hundred dollars. (Ib., Section 3.)

#### **Precautions Authorized in Border Towns.**

SECTION 4. The local board of health of any town near or adjoining the State line may, by writing under their hands, appoint suitable persons to attend at any places by which travelers may pass into such town from infected places in other States or provinces, who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by a justice of the peace in the county, or by one of said local board of health; and any such passenger who without such license travels in this State, except to return by the most direct way to the State or province whence he came, after he has been cautioned to depart by the persons so appointed, forfeits not exceeding one hundred dollars. (Ib., Section 4.)

#### **Process for Removal or Separate Accommodation of Infected Persons.**

SECTION 5. Any two justices of the peace may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the local board of health of the town where he is; or to impress and take convenient houses, lodgings, nurses, attendants, and other necessities for the accommodation, safety and relief of the sick. (Ib., Section 5.) 66 Me. 72, 314.

#### **Process for Securing Infected Articles.**

SECTION 6. When, on the application of the local board of health of a town it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing or goods therein are infected with any malignant contagious distemper, he shall, by a warrant directed to a proper officer, require him to impress so many men as the said justice thinks necessary to secure such infected articles, and to post said men

as a guard over the place where the articles are lodged, who shall prevent any persons from removing or approaching near such articles until due inquiry is made into the circumstances. (Ib., Section 6.)

**Justice May by Warrant Require Officers to Cause Them to Be Removed to Suitable Places.**

SECTION 7. He may by the same warrant, if it appears to him necessary, require said officer, under the direction of the local board of health, to impress and take convenient houses or stores for the safe keeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the local board of health think they are free from infection. (Ib., Section 7.) 55 Me. 135.

**Powers of Officers in Executing Such Process.**

SECTION 8. Said officer, if need be, may break open any house, shop, or other place mentioned in the warrant where infected articles are, and require such aid as is necessary to execute it; and all persons at the command of any such officer, under a penalty not exceeding ten dollars, shall assist in such execution. (Ib., Section 8.)

**Expenses, How Paid.**

SECTION 9. The charges for securing such infected articles and of transporting and purifying them shall be paid by the owners thereof, at the price determined by the local board of health. (Ib., Section 9.)

**Compensation for Men or Property Impressed.**

SECTION 10. When the officer impresses or takes any houses, stores, lodging, or other necessities, or impresses any man, as herein provided, the parties interested shall have a just compensation therefor, to be paid by the town in which such persons or property were impressed. (Ib., Section 10.) 65 Me. 404.

**Adjournment of Courts because of Danger from Infection.**

SECTION 11. When a malignant infectious distemper prevails in any town wherein the Supreme Judicial Court, the Superior Court or Court of County Commissioners is to be held, said courts may be adjourned and held in any town in said county, by proclamation made in such public manner as such courts judge best, as near their usual place of meeting as they think that safety permits. (Ib., Section 11.)

**Removal of Infected Prisoners from Places of Confinement.**

SECTION 12. When any person in a jail, house of correction or workhouse is attacked with any disease, which the local board of health of his town, by medical advice, considers dangerous to the safety and health of other prisoners, or of the inhabitants of the town, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement. (Ib., Section 12.)

**Order for Removal, How Returned — Such Removal Not An Escape.**

SECTION 13. If he was committed by order of a court or judicial process, the order for his removal, or a copy thereof attested by the local board of health shall be returned by them with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape. (Ib., Section 13.)

**May Order Removal of Private Nuisances — Proceedings Thereon.**

SECTION 14. When any source of filth, or other cause of sickness, is found on private property, the owner or occupant thereof shall, within twenty-four hours after notice from the said local board of health or officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits not exceeding one hundred dollars; and said local board of health or officer shall cause said nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it. (Ib., Section 16.) 57 Me. 438, 440, 65 Me. 436, 87 Me. 473.

**Masters, Etc., of Vessels May Be Examined on Oath in Certain Cases.**

SECTION 15. If a master, seaman, or passenger of a vessel, in which there is, or has lately been, or is suspected to have been any infection, or which has come from a port where any infectious distemper prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or distemper, by the

local board of health of the town to which such vessel comes, which oath either of said officers may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months. (Ib., Section 17.)

### **Vessels with Infected Persons to Anchor at a Distance from Towns.**

SECTION 16. When a vessel arrives at a port in this State, having on board any person infected with a malignant disease, the master, commander, or pilot shall anchor it at some convenient place below the town of such port, at a distance safe for the inhabitants thereof and the persons on board other vessels in said port; and no person or thing on board shall be brought on shore, until the local board of health gives their written permit. (Ib., Section 18.) 45 Me. 503.

### **Penalty for Violation of This Provision.**

SECTION 17. For the wilful violation of the preceding section, such master or commander forfeits not exceeding two hundred, and the pilot not exceeding fifty dollars for each offence. (Ib., Section 19.)

### **Selectmen May Establish Quarantine Regulations — Penalty for Breach Thereof.**

SECTION 18. The local board of health of a seaport town may cause vessels arriving there to perform quarantine at such place and under such regulations as they may judge expedient, when they think that the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations, shall forfeit not exceeding five hundred dollars, or be imprisoned not exceeding six months. (Ib., Section 20.)

### **Duty of Pilots to Give Notice Thereof.**

SECTION 19. When such local board of health thinks it necessary to order all vessels, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port, who shall make it known to the master of all vessels which they board. A pilot who neglects to do so, or who, contrary thereto, pilots any vessels up to said seaport town, forfeits not exceeding one hundred dollars. (Ib., Section 21.) 41 Me. 463.

**Punishment for Violation or Evasion of Quarantine after Notice.**

SECTION 20. If the master or commander of a vessel takes it up to any seaport town, after notice that a quarantine has been so directed for all vessels coming from the port or place whence his vessel sailed, or by false declarations, or otherwise, fraudulently attempts to elude such directions; or lands or suffers to be landed from his vessel any person or thing, without permission of the local board of health, he shall be punished as provided in Section 20 of Chapter 14 of the Revised Statutes. (Ib., Section 22.)

**Local Board of Health to Furnish Signals—Restrictions of Persons Visiting Vessels at Quarantine.**

SECTION 21. The local board of health of every seaport town requiring vessels to perform quarantine shall provide, at the expense of such town, a suitable number of red flags at least three yards in length; and the master of every vessel ordered to perform quarantine shall during the term thereof, cause one of them to be continually kept at the head of the mainmast of his vessel; and no person shall board such vessel during said term unless by permission of said local board of health; if he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel; and shall there be detained by force, if necessary, until discharged by said local board of health. (Ib., Section 23.)

**Health Committee May Exercise Authority of Selectmen, Relating to Quarantine.**

SECTION 22. In every seaport town the local board of health or officer may perform all the duties and exercise all the authority of the municipal officers in requiring vessels to perform quarantine. (Ib., Section 24.)

**Quarantine Expenses, How Paid.**

SECTION 23. Expenses incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid by him, or the owner of the vessel, or goods, as the case may be. (Ib., Section 25.)

**Hospitals May Be Established—Restrictions as to Location.**

SECTION 24. A town may establish therein one or more hospitals for the reception of persons having the small pox or other disease dan-



gerous to the public health; or its local board of health may license any building therein as a hospital, which shall be under the control of said local board of health; but no such hospital shall be within one hundred rods of an inhabited dwelling house in an adjoining town without the consent of the local board of health. (Ib., Section 26.)

### **Restrictions on Inoculation with the Small Pox.**

SECTION 25. Whoever inoculates himself or any other person, or suffers himself to be inoculated with the small pox, unless at some lawful hospital, forfeits not exceeding one hundred dollars for each offence. (Ib., Section 27.)

### **Physicians and Others Liable to Hospital Regulations.**

SECTION 26. When a hospital is so established or licensed the physicians, the persons inoculated or sick therein, the nurses, attendants, and all who come within its limits, and all furniture or other articles used or brought there, shall be subject to the regulations made by the local board of health. (Ib., Section 28.)

### **Hospitals to Be Provided on Breaking out of Infectious Diseases — Regulations.**

SECTION 27. When the small pox or any other disease dangerous to the public health breaks out in a town, the local board of health shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; such hospitals and places are subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto, unless their condition will not permit it without immediate danger; in which case the house or place where the sick are shall be deemed a hospital for every purpose aforesaid; and all persons residing in or in any way concerned with it are subject to hospital regulations. (Ib., Section 29.) 45 Me. 496, 64 Me. 120, 66 Me. 72, 314, 315.

### **Precautions to Prevent the Spread of Such Diseases.**

SECTION 28. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and shall give public notice of infected places to travelers, by displaying red flags at proper distances, and by all other means most effectual, in their judgment, for the common safety. (Ib., Section 30.) 28 Me. 257, 64 Me. 121.

**Penalty for Violation of Hospital Regulations by Persons Subject Thereto.**

SECTION 29. If any physician or other person in such hospitals or places of reception, attending, approaching, or concerned therewith, violates any lawful regulations in relation thereto, with respect to himself or his or another's property, he forfeits not less than ten, nor more than one hundred dollars for each offence. (Ib., Section 31.)

**Forfeiture, How Recovered and Appropriated.**

SECTION 30. All forfeitures mentioned in the preceding sections, except otherwise provided, inure to the town where the offence is committed. (Ib., Section 33.)

**BOARD OF HEALTH.****Free Vaccination.**

SECTION 31. The board of health of each city, village, town and plantation, shall annually, on the first day of March, or oftener, if they may deem it prudent, provide for the free vaccination with the cow pox, of all the inhabitants over two years of age, within their respective localities, to be done under the care of skilled practising physicians, and under such circumstances and restrictions as said authorities adopt therefor. (Ib., Section 35.)

**By-laws May Be Established.**

SECTION 32. Towns may establish By-laws for the preservation of health, and for protection against infectious diseases. (Ib., Section 36.)

**UNWHOLESOME PROVISIONS AND DRINKS.****Selling Unwholesome Provisions and Drinks—Penalty for Selling Veal of a Calf Less Than Four Weeks Old.**

SECTION 33. Whoever sells diseased, corrupted, or unwholesome provisions for food or drink, knowing it to be such, without informing the buyer; or fraudulently adulterates, for the purpose of sale, any substance intended for food, or any wine, spirits or other liquors intended for drink, so as to render them injurious to health, shall be punished by imprisonment for not more than five years, or by a fine not exceeding one thousand dollars; and whoever kills or causes to be

killed for the purpose of sale, any calf less than four weeks old, or knowingly sells, or has in possession with intent to sell for food, the meat of any calf killed when less than four weeks old, shall be punished by imprisonment in the jail or house of correction, not exceeding thirty days, or by fine not exceeding fifty dollars, or both; and all such meat exposed for sale, or kept with intent to sell, may be seized and destroyed by any board of health, or health officer, or any sheriff, deputy sheriff, constable, or police officer. (R. S. Chapter 128, Section 1.)

### **Warrants May Be Issued to Search for Such Veal.**

SECTION 34. When complaint is made on oath to any court or justice authorized to issue warrants in criminal cases, that meat of calves killed when less than four weeks old, is kept or concealed with intent to sell the same for purposes of food, such magistrate, when satisfied that there is reasonable cause for such belief, may issue a warrant to search therefor. (Ib., Section 2.)

### **Penalty for Manufacturing, Selling, Etc., Imitation of Yellow Butter or Cheese.**

SECTION 35. Whoever by himself or his agent manufactures, sells, exposes for sale or has in his possession with intent to sell, or takes orders for the future delivery of any article, substance or compound made in imitation of yellow butter or cheese, and not made exclusively and wholly of cream or milk, or containing any fats, oil or grease not produced from milk or cream, whether said article, substance or compound be named oleomargarine, butterine or otherwise named, forfeits for the first offence one hundred dollars and for the second and each subsequent offence, two hundred dollars, to be recovered by indictment with costs, one-third part to go to the complainant and the balance to the State. And it shall be the duty of every inspector of milk, sheriff, deputy sheriff and constable, as named in Section 5 of this chapter (Chapter 128 of Revised Statutes) to institute complaint against any person or persons violating the above named provisions of said Section 3. (Ib., Section 3.)

### **Duty of Officers to Make Complaints — Suspected Articles To Be Analyzed — Costs, How to Be Taxed.**

SECTION 36. Every inspector of milk, sheriff, deputy sheriff or constable shall institute complaint for violations of the preceding

section whenever he has reasonable cause for suspicion, and on the information of any person who shall lay before him satisfactory evidence of the same. Said inspector or officer shall take specimens of suspected butter or cheese and cause the same to be analyzed or otherwise satisfactorily tested. The expense of such analysis or test not exceeding twenty dollars in any one case, may be included in the costs of prosecution, and taxed and allowed to the officer paying the same. (Ib., Section 5.)

#### **Butter and Cheese Defined.**

SECTION 37. For the purposes of the preceding sections, the terms "butter" and "cheese" mean the products usually known by those names, and which are manufactured exclusively from milk or cream, or both, with salt and rennet, and with or without coloring matter. (Ib., Section 6.)

#### **Sugar and Molasses Shall Not Be Adulterated — Sale Prohibited — Penalty.**

SECTION 38. Whoever adulterates sugar or molasses; or knowingly, wilfully or maliciously sells, or offers or exposes for sale, sugar or molasses, adulterated with salts of tin, terra alba, glucose, dextrine, starch sugar, corn syrup, or other preparations from starch, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for not more than one year. (Ib., Section 7.)

#### **Manufacturing or Selling Impure Vinegar.**

SECTION 39. Whoever manufactures for sale, or knowingly offers or exposes for sale, or knowingly causes to be branded or marked as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively therefrom but into which any foreign substance, ingredient, drug or acid has been introduced, as appears by proper tests, shall, for each such offence, be punished by a fine of not less than fifty nor more than one hundred dollars. (Ib., Section 8.)

#### **Poison Vinegar, Lead.**

SECTION 40. Whoever manufactures for sale, or knowingly offers or exposes for sale, any vinegar found upon proper tests, to contain any preparation of lead, copper, or sulphuric acid, or other ingredient injurious to health, shall, for each offence, be fined not less than one hundred dollars. (Ib., Section 9.)

**Inspectors of Vinegar.**

SECTION 41. The mayor and aldermen of cities shall, and the selectmen of towns may, annually, appoint one or more persons to be inspectors of vinegar, for their respective municipalities, who shall be sworn before entering upon their duties. (Ib., Section 10.)

**SALE OF MEATS AND FISH.****Fresh Meat and Fish, Cities Have Power to Regulate Sale of, Etc. — Penalties.**

SECTION 42. Cities may establish localities for, and regulate the sale of fresh meat and fish, therein, and fix penalties for breach thereof. (R. S., Chapter 3, Section 59, par. XI.)

**CONTAGIOUS DISEASES AMONG CATTLE.****Cattle Infected by Contagious Disease to Be Isolated — Maintenance — Owners May Be Directed to Isolate Infected Cattle.**

SECTION 43. The municipal officers of towns shall cause all cattle, swine and sheep, therein infected, with lung murrain or pleuropneumonia, or any other contagious disease, or which have been exposed to infection, to be secured or collected in some suitable place or places therein, and kept isolated; and when taken from the possession of their owners, one-fifth of the expense thereof shall be paid by the town, and four-fifths by the State; such isolation to continue so long as the existence of such disease or other circumstances render it necessary, or they may direct the owners thereof to isolate such cattle, swine and sheep upon their own premises, and any damage or loss sustained thereby shall be paid as aforesaid. (R. S., Chapter 14, Section 37.)

**Animals to Be Examined — Infected Cattle May Be Killed if Necessary.**

SECTION 44. Within twenty-four hours after the municipal officers have notice of the existence of such disease, or have reason to believe that it exists, they shall cause the suspected animals to be examined by a veterinary surgeon or physician, by them selected, and if they are adjudged diseased, said officers may order them to be killed and buried forthwith at the expense of such town. (Ib., Section 38.)

**Cattle Killed to Be Appraised.**

SECTION 45. When so killed, they shall cause them to be appraised by three competent and disinterested men, under oath, at their value at the time of the appraisal and the same shall be paid as provided in Section 37 of Chapter 14 of the Revised Statutes. (Ib., Section 39.)

**Further Powers to City Officers.**

SECTION 46. They may prohibit the departure of cattle from any enclosure, and exclude cattle therefrom. (Ib., Section 40.)

**Passage of Animals, How Regulated.**

SECTION 47. They may in writing regulate or prohibit the passage from, to or through their towns or from place to place therein, of any neat cattle, and may arrest and detain, at the cost of the owners, all cattle found passing in violation of such regulations, and may take all other necessary measures for the enforcement of such prohibition, and for preventing the spread of any such disease in their towns and the immediate vicinity thereof. (Ib., Section 41.)

**Regulations to Be Recorded and Published.**

SECTION 48. Such regulations shall be recorded in the records of their towns, and shall be published in said towns in such manner as said regulations provide. (Ib., Section 42.)

**Sale of Infected Animals Prohibited — Penalty.**

SECTION 49. Whoever sells or disposes of any animal infected or known to have been exposed to infection within one year after such exposure without the knowledge or consent of the municipal officers, shall be fined not exceeding five hundred dollars or be imprisoned not exceeding one year. (Ib., Section 43.)

**Disobedience of Orders of Mayor and Aldermen — How Punished.**

SECTION 50. Whoever disobeys the orders of said municipal officers made in conformity with Sections 40 and 41 of Chapter 14, Revised Statutes, or drives or transports any neat cattle contrary to the regulations so made, recorded and published, shall be punished as provided in Section 43 of Chapter 14 of the Revised Statutes. (Ib., Section 44.)

**Knowledge or Suspicion of Disease to Be Reported — Failure, How Punished.**

SECTION 51. Whoever knows or has reason to suspect the existence of any fatal, contagious disease among the cattle in his possession or under his care, shall forthwith give notice thereof to the municipal officers, and for failure to do so shall be punished, as provided in Section 43 of Chapter 14 of the Revised Statutes. (Ib., Section 45.)

**Neglect or Refusal of City Officers to Comply — Penalty for.**

SECTION 52. Any town whose officers neglect or refuse to carry into effect the provisions of Sections 37 to 43 inclusive, of Chapter 14 of the Revised Statutes, forfeits not exceeding five hundred dollars for each day's neglect. (Ib., Section 46.)

**Appraisals, How Made — To Whom Certified.**

SECTION 53. Appraisals made under Section 39 of Chapter 14 of the Revised Statutes shall be in writing, and signed by the appraisers, and shall be certified by the municipal officers to the governor and council and to the treasurers of their towns. (Ib., Section 47.)

**Further Powers of Cities — Amount of Appraisal, How Paid — Owner Dissatisfied, May Maintain Action — Amount to Be Reimbursed.**

SECTION 54. The municipal officers of towns may, when they deem it necessary to carry into effect the purposes of this chapter, take and hold possession for a term not exceeding one year, of any land within their towns, without buildings other than barns thereon, for enclosing and isolating any cattle; and they shall cause the damages sustained by the owners in consequence thereof to be appraised by the assessors thereof, and they shall further cause a description of such land, setting forth the boundaries thereof, and the area as nearly as may be estimated, together with said appraisal, to be entered in the records of the town. The amount of said appraisal shall be paid as provided in Section 37 of Chapter 14 of the Revised Statutes, in such sums and at such times as they may order. If such owner is dissatisfied with the appraisal he may, in an action on the case, recover from the town a fair compensation for the damages sustained by him; but no costs shall be taxed unless the damages recovered in such action, exclusive of interest, exceed the appraisal of the assessors. The State shall reimburse the town four-fifths of any sum so recovered. (Ib., Section 48.)

**Notice to Governor and Secretary of Board of Agriculture — To Commissioners in Certain Cases.**

SECTION 55. Whenever such disease exists in a town the municipal officers shall forthwith give notice thereof to the governor and secretary of the board of agriculture; but if commissioners have been appointed as hereinafter provided, such notice shall be given to them. (Ib., Section 49.)

**Commissioners May Be Appointed — Powers of — Neglect or Refusal to Obey — How Punished.**

SECTION 56. The governor may, when he deems it expedient, appoint commissioners, with power to make all necessary regulations, and to issue summary orders for the treatment and the extirpation of any contagious disease among cattle, and may direct the municipal officers to enforce and carry them into effect; and any such officer or other person refusing or neglecting to enforce, carry out and comply with any regulations of such commissioners shall be fined as provided in Section 43 of Chapter 14 of the Revised Statutes. (Ib., Section 50.)

**Regulations Made by Commissioners to Supersede All Others — City Authorities to Enforce Directions of Commissioners.**

SECTION 57. All such regulations made and published by said commissioners shall, while in force, supersede the regulations made by the municipal officers. (Ib., Section 51.)

**Glanders.**

SECTION 58. Sections 37 to 54 inclusive of Chapter 14 of the Revised Statutes, apply to horses infected with glanders, or any other contagious disease. (Ib., Section 55.)

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**STATE BOARD OF HEALTH.**

(Public Laws of 1885, Chapter 286, as amended by Laws of 1887, Chapter 114.)

**State Board of Health Established — Members of, How Appointed — Tenure — Vacancies, How Filled — Secretary, How Appointed.**

SECTION 1. A State board of health is hereby established, consisting of seven members, as follows: six members who shall be appointed by the governor, with the advice and consent of the council, and a secretary, as hereinafter provided. The terms of office of the six first



appointed by the governor shall be so arranged that the term of one shall expire on the thirty-first day of January of each year for six years, and each vacancy so created shall be filled for a term of six years. If any vacancy among these members shall occur otherwise, a new member shall be appointed for the unexpired term by the governor, with the advice and consent of the council. At their first meeting, or as soon as a competent and suitable person can be obtained, the members appointed by the governor shall elect a secretary, who shall, by virtue of such election, become a member of the board, and its executive officer. The board may elect one of their own number secretary, in which case his term of office as a member, by appointment of the governor, shall expire, and the governor, with the advice and consent of the council, shall appoint another member to complete the full number of the board.

#### **Duties of Board — Report.**

SECTION 2. The State board of health shall have the general supervision of the interests of health and life of the citizens of the State. They shall study the vital statistics of the State, and endeavor to make intelligent and profitable use of the collected records of deaths and of sickness among the people; they shall make sanitary investigations and inquiries respecting the causes of disease, and especially of communicable diseases and epidemics, the causes of mortality, and the effects of localities, employments, conditions, ingesta, habits, and circumstances on the health of the people; they shall investigate the causes of disease occurring among the stock and domestic animals in the State, and the methods of remedying the same; they shall gather such information in respect to all these matters as they may deem proper for diffusion among the people; they shall, when required, or when they shall deem it best, advise officers of the government, or other boards within the State, in regard to the location, drainage, water supply, disposal of excreta, heating and ventilation of any public institution or building; they shall from time to time examine and report upon works on the subject of hygiene, for the use of the schools of the State; they shall have general oversight and direction of the enforcement of the statutes respecting the preservation of health; and they shall, in the month of January, make report to the governor and council of their doings, investigations and discoveries during the year ending on the thirty-first day of December, with such suggestions as to legislative action as they may deem necessary. Six thousand copies of said report shall be printed.

**Meetings of—Quorum—President, How Chosen.**

SECTION 3. The board shall meet quarterly at the State capitol, and at such other places and times as they may deem expedient. A majority shall be a quorum for the transaction of business. They shall choose annually one of their number to be their president, and may adopt rules and By-laws subject to the provisions of this Act. They shall have authority to send the secretary, or a committee of the board, to any part of the State, when deemed necessary to conduct an investigation within the scope of their prescribed work.

**Tenure of Secretary—Duties of.**

SECTION 4. The secretary shall hold his office as long as he shall faithfully discharge the duties thereof, but may be removed for just cause at a regular meeting of the board, a majority of the members voting therefor. He shall keep his office at the State capitol, and shall perform the duties prescribed by this Act, or required by the board. He shall keep a record of the transactions of the board; shall have the custody of all books, papers, documents, and other property belonging to the board, which may be deposited in his office; shall, as far as practicable, communicate with other State boards of health, and with the local boards of health within this State; shall keep and file all reports received from such committees and all correspondence of the office appertaining to the business of the board. He shall, as far as possible, aid in obtaining contributions to the library and museum of the board. He shall prepare blank forms of returns, and such instructions as may be necessary, and forward them to the clerks of the several local boards of health throughout the State. He shall collect information concerning vital statistics, knowledge respecting diseases, and all useful information on the subject of hygiene, and through an annual report, and otherwise, as the board may direct, shall disseminate such information among the people.

**Salary of—Expenses of Members Allowed.**

SECTION 5. The secretary shall receive an annual salary which shall be fixed by the State board of health. The board shall quarterly certify the amount due him, and on presentation of said certificate the governor shall draw his warrant on the State treasurer for the amount. The members of the board shall receive no compensation for their services, but their traveling and other necessary expenses while employed on the business of the board shall be allowed and paid.

**Annual Appropriation for.**

SECTION 6. The sum of five thousand dollars per annum, or as much thereof as may be deemed necessary by the State board of health, is hereby appropriated to pay the salary of the secretary, meet the contingent expenses of the office of the secretary and the expenses of the board, which shall not exceed the sum hereby appropriated. Said expenses shall be certified and paid in the same manner as the salary of the secretary.

**Health Committees of Town and Cities to Report to Board.**

SECTION 7. It shall be the duty of the local board of health in each town and city in the State, at least once in each year, to report to the State board of health its proceedings, and such other facts required, on blanks and in accordance with instructions received from said State board. It shall also make special reports whenever required to do so by the State board of health.

**Certain Officers and Others Required to Furnish Information to.**

SECTION 8. In order to afford to this board better advantages for obtaining knowledge important to be incorporated with that collected through special investigations and from other sources, it shall be the duty of all officers of the State, the physicians of all incorporated companies, and the president or agent of any company chartered, organized, or transacting business under the laws of this State, as far as practicable, to furnish to the State board of health any information bearing upon public health which may be requested by said board for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject.

**Secretary Shall Be Superintendent of Statistics.**

SECTION 9. The secretary of the State board of health shall be the superintendent of vital statistics. Under the general direction of the secretary of State he shall collect these statistics, and prepare and publish the report required by law relating to births, marriages and deaths.

**Secretary of State to Provide Room for Meetings of Board.**

SECTION 10. The secretary of State shall provide a suitable room for the meetings of the board at the State capitol, and office room for its secretary.

## LOCAL BOARDS OF HEALTH.

(Public Laws of 1895, Chapter 139; Public Laws of 1887, Chapter 123.)

### **Local Boards of Health Established.**

SECTION 1. There shall be a local board of health in each city and town in this State, to be composed of three members, anything in charter of such city to the contrary notwithstanding.

### **Appointment of—Tenure of—Vacancies, How Filled.**

SECTION 2. Their appointment shall be as follows: On the second Monday in April, 1887, the municipal officers in each town shall appoint three persons, one for three years, one for two years, and one for one year, and thereafter annually before the fifteenth day of April, one person to serve three years, and each to hold office until another is appointed in his stead. Any vacancy arising from any cause shall be filled at the first meeting thereafter, of the municipal officers. If, for any reason, the appointments are not made at said dates, the same shall be made as soon as may be thereafter.

### **Annual Meetings of.**

SECTION 3. Before the fifteenth day of May in each year, the board of health shall meet for the transaction of business, and shall choose a chairman and a secretary from their number.

### **Duties of Officers.**

SECTION 4. The chairman shall preside at all meetings of the board. The secretary shall, in a book kept for that purpose, make and keep a record of all the proceedings at the meetings and of all transactions, doings, orders and regulations of the board of health. The secretary shall be also the executive officer of the board when a health officer is not appointed.

### **Health Officer, Appointment, Qualifications and Duties of —Salary.**

SECTION 5. The municipal officers may appoint a health officer, who shall be a well educated physician, who shall be the sanitary adviser and executive officer of the board, and who shall hold office during the pleasure of the board. The municipal officers shall

establish his salary or other compensation, and shall regulate and audit all fees and charges of persons employed by each board of health, in the execution of the health laws and of their regulations.

### **Shall Report to Board.**

SECTION 6. It shall be the duty of the health officer, or where there is no health officer appointed, of the secretary of each local board of health at least once in each year, to report to the State board of health, their proceedings, and such other facts required, on blanks, and in accordance with instructions received from said board. He shall also make special reports whenever required to do so by the State board of health. He shall, within one week following their meeting and election of officers, report to the secretary of the State board of health, the name and address of each member of the local board, of the chairman and secretary, and of the health officer when one is appointed.

### **Powers.**

SECTION 7. Each local board of health constituted under this Act, shall have power and it shall be its duty:

1. To hold regular quarterly meetings, and special meetings whenever considered necessary by its executive officer, also whenever requested by the State board of health, or by the president and secretary thereof.

2. To prescribe the powers and duties of the local health officer when there is one, and to direct him, from time to time in the performance of his duties.

3. To guard against the introduction of contagious and infectious diseases, by the exercise of proper and vigilant medical inspection and control of all persons and things coming within the limits of its jurisdiction from infected places, or which for any cause, are liable to communicate contagion; to give public notice of infected places, by displaying red flags or by posting placards on the entrances of the premises; to require the isolation of all persons and things that are infected with, or have been exposed to, contagious or infectious diseases, and to provide suitable places for the reception of the same; and to furnish medical treatment and care for persons, sick with such diseases who cannot otherwise be provided for; to prohibit and prevent all intercourse and communication with, or use of, infected premises, places and things, and to require, and if necessary, to provide the means for

the thorough cleansing and disinfection of the same before general intercourse therewith, or use thereof, shall be allowed. And it shall be its duty to report to the State board of health promptly, facts which relate to infectious and epidemic diseases, and every case of small pox, varioloid, diphtheria and scarlet fever, occurring within the limits of its jurisdiction.

4. To receive and examine into the nature of complaints made by any of the inhabitants concerning nuisances dangerous to life and health, within the limits of its jurisdiction; to enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and personally, or by appointed agents, to inspect and examine the same; and all owners, agents and occupants shall permit such sanitary examinations; and every such board of health shall have power, and it shall be its duty, to order the suppression and removal of nuisances and conditions detrimental to life and health found to exist within the limits of its jurisdiction.

5. To make, alter or amend such orders and By-laws as they shall think necessary and proper for the preservation of life and health and the successful operation of the health laws of the State, subject to the approval of any justice of the Supreme Judicial Court. Notice shall be given by the board of health of all By-laws made or amended by them, by publishing the same in some newspaper, if there is one published in such town; if there is none, then in the nearest newspaper published in the county, and a record of such publication of said orders and By-laws in the office of the town clerk shall be deemed a legal notice to all persons.

**Shall Give Notice to Owner of Any Infected House, Etc.,  
Requiring Same to Be Disinfected.**

SECTION 8. Where any local board of health is of opinion that the cleansing and disinfecting of any house, building, car, vessel or vehicle, or any part thereof, and of any article therein likely to contain infection, would tend to prevent or check infectious disease, it shall be the duty of such local board of health to give notice in writing to the owner, agent, or occupier of such house, building, car, vessel or vehicle, or part thereof, requiring him to cleanse and disinfect to the satisfaction of the health officer, or board of health, such house, building, car, vessel or vehicle, and said articles, within a time specified in such notice.

**Penalty for Failure to Comply with Notice.**

SECTION 9. If the person to whom notice is given fails to comply therewith, he shall be liable to a penalty of not less than five dollars, and not exceeding ten dollars, for every day during which he continues to make default; and the local board of health shall cause such house, building, car, vessel or vehicle, or any part thereof, and articles, to be cleansed and disinfected at the expense of the town, and the town may recover the expenses so incurred from the owner, agent, or occupier, in default, by an action of special assumpsit.

**Notice Shall Be Given Board of Existence of Any Infectious Disease.**

SECTION 10. Whenever any householder knows or has reason to believe that any person within his family or household has small pox, diphtheria, scarlet fever, cholera, typhus or typhoid fever, he shall within twenty-four hours give notice thereof to the health officer of the town in which he resides, and such notice shall be given either at the office of the health officer, or by a communication addressed to him and duly mailed within the time above specified, and in case there is no health officer, to the secretary of the local board of health, either at his office or by communication as aforesaid.

**Infected Person Shall Not Be Removed from Any House without Permission of Board.**

SECTION 11. No householder, in whose dwelling there occurs any of the above-mentioned diseases, shall permit any person suffering from any such disease, or any clothing or other property to be removed from his house, without the consent of the board, or of the health officer, and the said board or health officer, shall prescribe the conditions of removal.

**Children Affected, Shall Not Attend School, Etc.**

SECTION 12. No parent, guardian, or other person, shall carelessly carry about children or others affected with infectious diseases, or knowingly or wilfully introduce infectious persons into other persons' houses, or permit such children under his care, to attend any school, theatre, church or any public place.

**Physician Shall Give Notice of Existence of Contagious Disease.**

SECTION 13. Whenever any physician knows or has reason to believe that any person whom he is called upon to visit, is infected with

small pox, scarlet fever, diphtheria, typhus or typhoid fever, or cholera, such physician shall, within twenty-four hours, give notice thereof to the secretary of the local board of health, or the health officer of the town in which such person lives.

**Person Affected with Small Pox, Etc., Shall Not Mingle with the Public.**

SECTION 14. No person affected with small pox, scarlet fever, diphtheria, or cholera, and no person having access to any person affected with any of the said diseases, shall mingle with the general public until such sanitary precautions as may be prescribed by the local board shall have been complied with.

**Convalescents and Nurses Shall Not Leave Premises without Certificate from Health Officer.**

SECTION 15. Persons recovering from small pox, scarlet fever, diphtheria or cholera, and nurses who have been in attendance on any person suffering from any such disease, shall not leave the premises till they have received from the board of health or health officer, a certificate that they have taken such precautions as to their persons, clothing, and all other things which they propose bringing from the premises as are necessary to insure the immunity from infection of other persons with whom they may come in contact, and no such person shall expose himself in any public place, shop, street, inn or public conveyance without having first adopted such precautions.

**Disinfectant of Bedding, Excreta, Etc.**

SECTION 16. Nurses and other attendants upon persons sick with small pox, scarlet fever, diphtheria, or cholera, shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things which have been exposed to infection, such measures as may be ordered in writing, by the local board of health.

**Use of Bedding and Clothing until Disinfected, Prohibited.**

SECTION 17. No person shall give, lend, transmit, sell or expose any bedding, clothing or other article likely to convey any of the above diseases, without having first taken such precautions as the local board of health may direct as necessary for removing all danger of communicating any such disease to others.



**Bedding and Clothing May Be Destroyed by Board.**

SECTION 18. Any local board of health may direct the destruction of any bedding, clothing, or other articles, which have been exposed to infection.

**Children Who Have Been Exposed to Contagion Shall Be Excluded from Public Schools.**

SECTION 19. Whenever small pox, diphtheria, scarlet fever or other contagious diseases, shall appear in a town or a school district, it shall be the duty of the local board of health immediately to notify the teachers of the public schools in the neighborhood of the fact, and it shall be the duty of all teachers and school officers when thus notified, or when otherwise they shall know or have good reason to believe that any such disease exists in any house in the neighborhood, to exclude from the schoolhouse all children and other persons living in such infected houses or who have called or visited at such houses, until such time as the local board of health shall certify that such children or other persons may safely be readmitted.

**Schoolhouses When Infected Shall Be Closed.**

SECTION 20. When persons from houses or places which are infected with any of the diseases specified in Section 19, have entered any schoolroom, or when, from any other cause, the schoolroom has probably become infected, it shall be the teacher's duty to dismiss the school, and notify the school officers and local board of health, and no school shall be again held in such schoolroom until the room has been disinfected to the satisfaction of the local board of health, and it shall be the duty of the school officers and board of health to have the room disinfected as soon as possible.

**When Any Cellar, Etc., Becomes Unfit for Occupancy, Notice Shall Be Served on the Owner to Cleanse the Same — If Owner Fails, Board May Cleanse at Owner's Expense.**

SECTION 21. The board, when satisfied upon due examination, that a cellar, room, tenement or building in its town, occupied as a dwelling place, has become, by reason of want of cleanliness, or other cause, unfit for such purpose, and a cause of sickness to the occupants or the public, may issue a notice in writing to such occupants, or to the owner or his agent, or any of them, requiring the premises to be put into a

proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the board may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the board may cause the premises to be properly cleansed at the expense of the owner, or may close up the premises, and the same shall not be again occupied as a dwelling place, until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied, without putting the same in a proper sanitary condition, he shall forfeit not less than ten or more than fifty dollars.

**Persons Infected Shall Not Be Allowed to Enter Any Conveyance without Notice to Owner.**

SECTION 22. No person having small pox, diphtheria, scarlet fever, cholera, or other disease dangerous to public health, shall enter, nor shall any person allow any one under his charge who has any such disease, to enter any conveyance without having previously notified the owner or person in charge of such conveyance, of the fact of his having such disease.

**When Such Conveyance Has Been So Used, It Shall Be Disinfected.**

SECTION 23. The owner or person in charge of any such conveyance shall not, after the entry of any person so infected into his conveyance, allow any other person to enter it, without having sufficiently disinfected it under the direction of the local board of health, or the supervision of the health officer.

**Houses Shall Be Disinfected Where Contagion Has Existed.**

SECTION 24. No person shall let or hire any house or room in a house in which small pox, diphtheria, scarlet fever, cholera, or typhoid fever has existed, without having caused the house and the premises used in connection therewith, to be disinfected to the satisfaction of the local board of health.

**Officers Shall Not Be Obstructed in Performance of Duty.**

SECTION 25. Any member of a local board of health, or any health officer or other person employed by the local board of health may, when obstructed in the performance of his duty, call to his assistance, any constable or other person he thinks fit, and it shall be the duty of every such constable or person so called upon, to render such assistance.

**Penalty for Violation of This Act.**

SECTION 26. Any person who shall wilfully violate any of the provisions of this Act, or of said regulations and By-laws, the penalty for which is not herein specifically provided for, and any person who shall wilfully interfere with any person or thing, to prevent the execution of the provisions of this Act or of said regulations and By-laws, shall be guilty of a misdemeanor; and upon conviction thereof, shall be subject to a fine of not more than fifty dollars, and judges of Municipal and Police Courts and trial justices, shall have jurisdiction original and concurrent with the Supreme Judicial and Superior Courts, of all offences under this Act.

**Certain Acts Repealed and Amended.**

SECTION 27. Sections 14, 15, 32 and 34 of Chapter 14 of the Revised Statutes, and all Acts and parts of Acts inconsistent with this Act, are hereby repealed. All Acts and parts of Acts which read "health committee," are hereby amended so as to read, "local board of health," and said Chapter 14, Sections 1 to 13 inclusive, and Sections 16 to 29 inclusive, are hereby amended so as to make "municipal officers" read "local board of health."

**Certain Contagious Diseases Shall Be Reported to Local Board of Health.**

SECTION 28. Cases of cerebro-spinal meningitis, of measles, of so called membranous croup, of whooping cough, and of pulmonary tuberculosis, or consumption as it is commonly termed, shall be reported promptly to the local board of health of the town in which cases of this disease occur; and it shall be the duty of any householder who knows or has reason to believe that any person in his family or household has any of these diseases, and it shall be the duty of any physician who knows or has reason to believe that any person whom he attends or is called to visit, is affected with any of these diseases, to report the same to the local board of health. (P. L., 1895, Chapter 139, Section 2.)

**Report of Diseases Shall Be Made on Blanks Furnished by State Board.**

SECTION 29. It shall be the duty of each local board of health to notify the State board of health of cases within its jurisdiction, of

typhoid fever and of the diseases named in Section 2 of this Act, and such notifications shall be in accordance with the requirements of the blanks furnished by the said State board. (Ib., Section 3.)

### **How Violation Shall Be Punished.**

SECTION 30. The provisions of this Act shall be enforced, and violations thereof shall be punished as is provided by Section 26 of Chapter 123 of the Public Laws of 1887, and by Section 2 of Chapter 227 of the Public Laws of 1889. (Ib., Section 4.)

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## **PROVISIONS FOR APPOINTMENT OF LOCAL BOARDS OF HEALTH IF MUNICIPAL OFFICERS FAIL.**

(Public Laws of 1890, Chapter 227.)

### **State Board of Health May Appoint Local Boards, if Towns Fail to Appoint.**

SECTION 1. If the municipal officers of any city or town shall fail to appoint a local board of health, or to fill any vacancy in said board, in accordance with the provisions of Section 2 of Chapter 123 of the Public Laws of 1887, the secretary of the State board of health may in writing request such municipal officers to make such appointment, and if the municipal officers shall neglect or refuse to do so for a period of thirty days after receiving such written request, the State board of health may appoint such local board of health, or fill any vacancy thereon.

### **Proceedings in Cases of Violation of.**

SECTION 2. It shall be the duty of the secretary or health officer of each local board of health in this State, who shall have knowledge of any violation of the provisions of Section 13 of Chapter 123 of the Public Laws of 1887, occurring within the jurisdiction of such local board of health, to forthwith give notice thereof in writing and of all facts within his knowledge in relation thereto, to the county attorney of the county in which such violation has occurred, and said county attorney shall thereupon examine into the case and take such action in the matter as the circumstances of the case require.

TO PROVIDE AGAINST THE DANGER OF SMALL POX  
FROM PAPER MILLS.

(Public Laws of 1889, Chapter 213.)

**Superintendent of Paper Mills Shall Not Employ Any  
Person Not Successfully Vaccinated.**

SECTION 1. No owner, agent, or superintendent of any paper mill where domestic or foreign rags are used in the manufacturing of paper shall hire or admit any person to work in or about said mill who has not been successfully vaccinated or revaccinated within two years, or to the satisfaction of the local board of health.

**Persons Not Successfully Vaccinated Shall Not Work in  
Paper Mill.**

SECTION 2. No person shall work in or about any paper mill where rags are used who has not been successfully vaccinated or revaccinated within two years, or to the satisfaction of the local board of health.

**List of Employees Shall Be Furnished Local Board of  
Health, Semi-Annually.**

SECTION 3. The owner, agent and superintendent in every paper mill where rags are used shall every year, in the months of February and September, make out and deliver to the local board of health, a list containing the names, ages, kind of work, and places of residence of all persons employed in or about said mill.

**Employees Shall Be Examined Semi-Annually.**

SECTION 4. In the months of March and October, annually, each and every person who is employed in a paper mill, shall be examined by the local board of health as to whether he or she is successfully and sufficiently protected by vaccination, and the local board of health shall in all cases be the judges of the sufficiency of the protection by vaccination.

**Penalty for Violation.**

SECTION 5. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than fifty dollars.

**Enforcement of Act.**

SECTION 6. It shall be the duty of the local boards of health within their respective jurisdictions, and of the State board of health, to enforce this Act as far as comes within their power, and when said State board of health knows or has reason to believe that any penalty or forfeiture has been incurred by reason of neglect to comply with said Act, it shall, at its discretion, give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

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TO PROVIDE AGAINST DANGER OF BLINDNESS  
IN INFANTS.

(Public Laws of 1891, Chapter 115.)

**Duty of Midwife, Etc., to Report to Physician if Infants'  
Eyes Are Inflamed within Four Weeks after Birth.**

SECTION 1. Should one or both eyes of an infant become reddened or inflamed at any time within four weeks after birth, it shall be the duty of the midwife, nurse or person having charge of said infant to report the condition of the eyes at once to some legally qualified practitioner of medicine of the city, town or district in which the parents of the infant reside.

**Penalty.**

SECTION 2. Any failure to comply with the provision of this Act shall be punishable by a fine, not to exceed one hundred dollars, or imprisonment not to exceed six months, or both.

TO PREVENT THE INTRODUCTION OF CHOLERA AND  
OTHER INFECTIOUS DISEASES, AND FOR THE  
MORE EFFECTIVE PROTECTION OF  
THE PUBLIC HEALTH.

(Public Laws of 1893, Chapter 305.)

**State Board of Health Authorized to Establish System of Inspection to Ascertain Presence of Infectious Diseases — Inspector of, Shall Have Power to Enter Any Building, Etc. — To Stop Vessels, Etc. — May Detain Train and Side Track if Infected — May Make Rules and Regulations for Guarding against Introduction of Diseases — Shall Supersede All Local Rules.**

SECTION 1. The more effectually to protect the public health the State board of health shall have power to establish such systems of inspection as in its judgment may be necessary to ascertain the actual or threatened presence of the infection of Asiatic cholera, small pox, diphtheria, scarlet fever or typhus fever; and any duly authorized agent or inspector of said board shall have power to enter any building, vessel, railway car or other public vehicle, to inspect the same and to remove therefrom any person affected by said diseases; and for this purpose he may require the person in charge of any vessel or public vehicle other than a railway car to stop such vessel or vehicle at any place, and he may require the conductor of any railway train to stop his train at any station, or upon any side track, and there detain it for a reasonable time, provided, that no conductor shall be required to stop his train when telegraphic communication with the dispatcher's office cannot be obtained, or at such times or under such circumstances as may endanger the safety of the train and passengers; and provided further, that any such agent or inspector may cause any car which he may think may be infected with said disease to be side tracked at any suitable place and there be cleansed, fumigated and disinfected. And the said board of health may from time to time make, alter, modify or revoke rules and regulations for guarding against the introduction of said diseases into the State; for the control and suppression thereof if within the State; for the quarantine and disinfection of persons, localities, and things infected or suspected of being infected by such diseases; for the transportation of dead bodies when death resulted

from said diseases; for the speedy and private interment of the bodies of persons who have died from said diseases; and, in emergency, for providing those sick with said diseases with necessary medical aid and with temporary hospitals for their accommodation and for the accommodation of their nurses and attendants. And the said board may declare any and all of its rules and regulations made in accordance with the provisions of this Act to be in force within the whole State, or within any specified part thereof, and to apply to any vessel, railway car, or public vehicle of any kind. The rules and regulations of the State board of health, if of general application, shall be published in the official paper of the State; but whenever, in the judgment of the board, it shall be necessary to do so, special rules and regulations, or orders relating to said diseases, may be made for any town, village or city, without such publication, and the service of copies of such rules, regulations, or orders upon such town, village or city through the officers thereof, shall be a sufficient notice thereto; and the rules, regulations or orders of the State board of health made in accordance with the provisions of this Act, shall, from the time being and until the same are revoked, supersede all local rules, regulations, By-laws or ordinances that may be inconsistent or in conflict therewith.

**All Officers Shall Enforce Regulations — Penalty for Refusing to Obey Rule — Authorities Required to Co-operate with Board.**

SECTION 2. All health officers, local boards of health, municipal officers, sheriffs, constables, policemen, and marshals shall enforce the rules and regulations of the State board of health made as provided in this Act in every particular affecting their respective localities and duties; and any person who shall neglect or refuse to obey the said rules and regulations, or who shall wilfully obstruct or hinder the execution thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both fine and imprisonment in the discretion of the court. And it shall be the duty of all authorities of every county, city, town and village corporation, and of all local boards of health, and of all officers and persons in charge of the institutions, buildings and vehicles mentioned in this Act to coöperate with the State board of health in carrying out the provisions of this Act; and in case such coöperation be refused, withheld or neglected, the said board shall have power to execute its orders and directions by agents of



its own appointment; and all expenses incurred under the provisions of this section shall be paid by the State, the bills first being approved by the governor and council.

**Rules Must Be Approved by Governor and Council.**

SECTION 3. Any rules and regulations adopted by the State board of health in the premises shall be immediately submitted by it to the governor and council and unless approved in writing by the governor and council within thirty days after such submission, such rules and regulations shall thereafter become ineffective. Should the governor and council disapprove any rules and regulations so submitted to them within the thirty days and so notify the secretary of the board of health in writing, the rules and regulations so disapproved shall, upon such notification, immediately become ineffective and void.

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**STATE OF MAINE CATTLE COMMISSION.**

(Public Laws of 1889, Chapter 177, superseding Chapter 138, Public Laws of 1887, as amended by Public Laws of 1893, Chapter 194.)

**Purposes — Board of Cattle Commissioners, How Appointed — Title — Tenure of Office — Compensation — Oath — Organization.**

SECTION 1. That for the purpose of facilitating and encouraging the live stock interests of Maine, and for extirpating all insidious, infectious and contagious diseases, now or that may be among cattle, horses and sheep, and especially tuberculosis, the governor of the State is hereby authorized and required, immediately after the passage of this Act, to appoint a board of cattle commissioners, consisting of three persons of known executive ability, who shall be charged with the execution of the provisions of this Act, and who shall be known and designated as the State of Maine Cattle Commission, and whose powers and duties shall be those provided for in this Act, and whose tenure of office shall be at the option of the governor. The compensation of said commissioners shall be at the rate of three dollars per day during the time they are actually engaged in the discharge of their duties as commissioners. The said commissioners shall respectively take an oath to faithfully perform the duties of their office, and shall immediately organize as such commission by the election of one of their number as president thereof, and proceed forthwith to the discharge of the duties devolved upon them by the provisions of this Act.

**Powers and Duties.**

SECTION 2. That it shall be the duties of the said commissioners to cause investigation to be made as to the existence of tuberculosis, pleuropneumonia, foot and mouth disease, and other infectious or contagious diseases. And such commissioners or their duly constituted agent are hereby authorized to enter any premises or places, including stock yards, cars and vessels, within any county or part of the State in or at which they have reason to believe there exists any such diseases, and to make search, investigation and inquiry, in regard to the existence thereof. Upon the discovery of the existence of any of the said diseases, the said commissioners are hereby authorized to give notice, by publication, of the existence of such disease, and the locality thereof, in such newspapers as they may select, and to notify in writing, the officials or agents of any railroad, steamboat, or any other transportation company, doing business in or through such infected locality, of the existence of such disease; and are hereby authorized and required to establish and maintain such quarantine of animals, places, premises or localities, as they may deem necessary to prevent the spread of any such disease, and also to cause the appraisal of the animal or animals affected with the said disease, in accordance with such rules and regulations by them, as hereinafter authorized and provided, and also to cause the same to be destroyed, and to pay the owner or owners thereof one-half of their value, as determined upon the basis of health before infection, out of any moneys appropriated by the legislature for that purpose; provided, however, that no appraised value shall be more than one hundred dollars for an animal with pedigree, recorded or recordable in the recognized herd books of the breed in which the animal destroyed may belong, nor more than fifty dollars for an animal which has no recordable pedigree; provided, further, that in no case shall compensation be allowed for an animal destroyed under the provisions of this Act, which may have contracted or been exposed to such disease in a foreign country, or on the high seas, or that may have been brought into this State within three years previous to such animal's showing evidence of such disease; and the owner or owners shall furnish satisfactory evidence as to the time such animal or animals shall have been owned in the State; nor shall compensation be allowed to any owner who in person, or by agent, knowingly and wilfully conceals the existence of such disease, or the fact of exposure thereto in animals of which the person making such concealment by himself or agent, is in whole or part owner.

**Authorized to Make, Record and Publish Rules and Regulations Subject to Approval by the Governor.**

SECTION 3. That the said commissioners are hereby authorized and required to make record, and publish rules and regulations providing for and regulating the agencies, methods, and manner of conducting, and the investigations aforesaid, regarding the existence of said contagious diseases; for ascertaining, entering and searching places where such diseased animals are supposed to exist; for ascertaining what animals are so diseased, or have been exposed to contagious diseases; for making, reporting and recording descriptions of the said animals so diseased or exposed and destroyed, and for appraising the same, and for making payment therefor; and to make all other needful rules and regulations which may, in the judgment of the commissioners, be deemed requisite to the full and due execution of the provisions of this Act. All such rules and regulations, before they shall become operative, shall be approved by the governor of Maine, and thereafter published in such manner as shall be provided for in such regulations; and after such publication such rules and regulations shall have the force and effect of law, so far as the same are not inconsistent with this Act and other laws of the State, or United States.

**Penalty for Obstructing Commissioners.**

SECTION 4. That any person or persons who shall knowingly and wilfully refuse permission to said commissioners, or either of them, or their duly constituted agent, to make, or who knowingly and wilfully obstruct said commissioners, or either of them, or their duly constituted agent, in making all necessary examinations of and as to animals supposed by said commissioners to be diseased as aforesaid, or in destroying the same, or who knowingly attempts to prevent said commissioners, or either of them, or their duly constituted agent, from entering upon the premises and other places hereinbefore specified, where any of said diseases are by said commissioners supposed to exist, shall be deemed guilty of a misdemeanor, and upon conviction thereof, or of either of the Acts in this section prohibited, shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding ninety days, or by both fine and imprisonment, at the discretion of the court.

**Penalty for Concealing Existence of Any Contagious Disease.**

SECTION 5. That any person who is the owner of, or who is possessed of any interest in any animals affected with any of the diseases named in Section 2 of this Act, or any person who is agent, common carrier, consignee, or otherwise is charged with any duty in regard to any animal so diseased, or exposed to the contagion of such disease, or any officer or agent charged with any duties under the provisions of this Act, who shall knowingly conceal the existence of such contagious disease, or the fact of such exposure to such contagion, and who shall knowingly and wilfully fail, within a reasonable time, to report to the said commissioners their knowledge or their information in regard to the existence and location of said disease, or of such exposure thereto, shall be deemed guilty of a misdemeanor, and shall be punishable as provided in Section 4 of this Act.

**How Animals Shall Be Disposed of Whose Owner Refuses Terms of Appraisement.**

SECTION 6. That when the owner of animals, decided under the provisions of this Act, by the proper authority, to be diseased, or to have been exposed to contagion, refuses to accept the sum authorized to be paid under the appraisement provided for in this Act, it shall be the duties of the commissioners to declare and maintain a rigid quarantine as to the animals decided, as aforesaid, to be diseased, or to have been exposed to any contagious or infectious disease, and of the premises or places where said cattle may be found, according to the rules and regulations to be prescribed by said commissioners, approved by the governor, and published, as provided in Section 3 of this Act.

**Transportation of Diseased or Suspected Cattle Forbidden — Penalty.**

SECTION 7. That no person or persons owning or operating any railroad, nor the owner or owners, or masters, of any steam, sailing, or other vessels, within the State, shall receive for transportation, or transport from one part of the State to another part of the State, or to bring from any other part of the State, or to bring from any other State or foreign country any animals affected with any of the diseases named in Section 2 of this Act, or that have been exposed to such diseases, especially the disease known as tuberculosis, knowing such animals to

be affected, or to have been so exposed; nor shall any person or persons, company or corporation, deliver for such transportation to any railroad company, or to the master or owner of any vessel, any animals, knowing them to be affected with, or to have been exposed to, any of said diseases; nor shall any person or persons, company or corporation, drive on foot, or transport in private conveyance, from one part of the State to another part of the State, any animal, knowing the same to be affected with, or to have been exposed to, any of said diseases. Any person or person violating the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding the sum of two hundred dollars, or by imprisonment not exceeding six months, or by both fine and imprisonment.

#### **How Act Shall Be Enforced.**

SECTION 8. That it shall be the duty of the several county attorneys to prosecute all violations of this Act, which shall be brought to their notice or knowledge by any person making the complaint under oath; and the same shall be heard in any Supreme Judicial Court having jurisdiction in the county in which the violation of this Act has been committed.

#### **Secretary, Election, Compensation and Duties of — Report.**

SECTION 9. That the said commissioners are hereby authorized to appoint or elect one of their number as secretary of said board, who shall receive a reasonable compensation for his services during the time in which, under the provisions of this Act, the services of the said commissioners shall be required. The said commissioners shall make and preserve a full record of all rules and regulations promulgated under the provisions of this Act, of all payments and expenses hereunder incurred, and all other transactions performed by said commissioners in the discharge of their duties as herein provided; and the said commissioners shall, on or before the first Wednesday in January of each year, during their continuance in service, and at other times as they may deem conducive to the public interests, or as they may be required so to do by the governor of State, report to said governor full and accurate accounts of their expenditures, and other proceedings under the provisions of this Act, and of the condition of said diseases, if any, in the State, to be communicated by him to the legislature. Whenever the functions of said commission shall be suspended or

terminated, it shall turn over to the secretary of State all its books, papers, records and other effects, taking his receipt therefor, and he shall remain the custodian of the same until such time as the functions of said commission may be restored.

### **Authorized to Employ Veterinarians — Expenditures.**

SECTION 10. That the commissioners shall have power, and are hereby authorized to employ skilled veterinarians, and such other agents and employes as they may deem necessary to carry into effect the provisions of this Act, and to fix the compensation of the person or persons so employed, and to determine such employment at their discretion; and they are authorized out of the moneys by this Act appropriated, to make such expenditures as may be needed for the actual and necessary traveling expenses of themselves and their said employes, stationery, expenses of disinfecting premises, cars and other places, destroying diseased and exposed animals, and for paying for the same, and such other expenses and expenditures as they may find to be actually necessary to properly carry into effect the provisions of this Act.

### **How Money Shall Be Drawn from Treasury and Disbursed — Secretary Shall Be Sworn and Give Bond.**

SECTION 11. That the moneys appropriated by this Act shall be paid over to the secretary of said commission, from time to time, as the same may be found to be needed, upon requisition made by the said commissioners, and shall be disbursed by the said secretary of said commission only upon vouchers approved by said commissioners or a majority of them. The said secretary shall before entering upon the duties of his office, take an oath to faithfully discharge the duties thereof, and shall enter into a bond to the State of Maine, with sureties to be approved by the treasurer of State, in such sum as he may designate, for the faithful accounting of all moneys received by the said secretary of the commission, under the provisions of this Act.

### **Appropriation.**

SECTION 12. That for the purpose of carrying into effect the provisions of this Act, the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated.

**RELATING TO HEALTH AND BOARDS OF HEALTH.**

(Public Laws of 1895, Chapter 144.)

**Penalty for Holding Any Diseased Milk for Human Food.**

SECTION 1. The owner or other person having charge of any animal, or meat or milk of any animal afflicted with tuberculosis or other contagious or infectious disease, who, knowing that the animal is thus affected, shall hold the animal, or its meat or milk, for human food, shall be liable, on conviction, to a fine of not less than five dollars nor more than fifty dollars.

**Suspected Cases of Tuberculosis or Glanders Shall Be Investigated by Local Board of Health — Cattle Commissioners Shall Be Notified.**

SECTION 2. Whenever a local board of health or its executive officer has notice of, or suspects the existence of a case of tuberculosis or of glanders in domestic animals, such board or officer shall forthwith investigate or cause to be investigated, the truth of such notification or the grounds for such suspicion; and if there appear to be good grounds for believing that such disease is present, the local board of health or its executive officer shall notify the State Cattle commissioners, reciting in said notification the grounds for their belief or suspicion. And it shall be the duty of the owner or other person having charge of any animal which he knows or suspects to be affected with tuberculosis or glanders, to notify the local board of health at once. 83 Me. 111, 84 Me. 99.

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**ORDINANCES.****Execution of Health Laws and Ordinances Committed to City Marshal.**

SECTION 1. The execution of the laws and ordinances relating to the subjects of internal and external health shall be under the superintendence of the city marshal and his deputies, and it shall be their duty, and they and each of them shall have the power to enforce all laws, ordinances, regulations and orders relating to causes of sickness, nuisances and sources of filth, existing within the city, within the harbor, or in any vessel within said harbor, or on any island, subject always to the direction, authority and control of the mayor and aldermen.

**No Filth Shall Be Thrown into Streets or Docks.**

SECTION 2. No person shall throw or deposit, or cause to be thrown or deposited, in any street, court, square, lane, alley, or public place, any sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, waste or dirty water, or any animal, vegetable or offensive matter whatever. Nor shall any person or persons throw or cast any dead animal, or any foul or offensive matter in any dock or place between the channel and the shore, nor shall land any foul or offensive animal or vegetable substance within the city, nor shall cast any dead animal in the waters of the harbor or back cove. No person shall throw, cast or place any living animal with intent to drown the same, in any dock or place between the channel and the shore.

**Penalty.**

SECTION 3. If any of the substances mentioned in the preceding section shall be thrown or carried into any street, lane, alley, court, square or public place, from any house, woodhouse, shop, cellar, yard, or any other place, the owner or occupant of such house or place, and the person who actually threw and carried the same therefrom, shall severally be held liable for such violation of this ordinance, and all such substances shall be removed at the expense of the owner or occupant of the house or other place, whence the same were thrown or carried, within two hours after personal notice in writing to that effect given by the mayor, any alderman, the city marshal or deputy, or the board of health.

**Filth, Etc., May be Removed by Order of Mayor, Aldermen or Marshal.**

SECTION 4. All dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, or any animal or vegetable substance, or filth of any kind, in any house, warehouse, cellar, yard, or other place which the mayor, any alderman, city marshal or deputy, or board of health shall deem necessary for the health of the city to be removed, shall be carried away therefrom, by and at the expense of the owner or occupant of such house or other place where the same shall be found, and removed to such place as shall be directed, within four hours after notice in writing to that effect, given by the mayor, any alderman, city marshal, deputy, or board of health.

**In Case of Neglect to Remove Nuisances after Notice.**

SECTION 5. Whenever any person shall have been duly notified to remove any nuisance, or to perform any other act or thing which it may



be his duty to perform for the preservation of the health of the city, and the time limited for the performance of such duty shall have elapsed, without a compliance of such notice, the city marshal shall forthwith cause such nuisance to be removed at the expense of the person so notified. And the mayor or board of health shall cause all persons who shall violate or disobey the health laws or regulations to be forthwith prosecuted and punished. And if, in the opinion of the mayor and aldermen, or the city marshal, or deputy, or board of health, it shall be for the health or comfort of the inhabitants of the city that any particular nuisance should be removed forthwith and without delay, it shall be their duty to cause the same to be removed accordingly. And if the said nuisance existed in violation of this ordinance, or of any of the laws, regulations or ordinances relating to the health of the city, then the expense of removing the same shall be paid by the owner or occupant of the house or other place where the same was found, and if payment be refused on demand thereof by the city marshal, it shall be sued for in the name of the city.

#### **Penalty.**

SECTION 6. Any person offending against the provisions of the preceding sections shall forfeit and pay not less than one dollar nor more than twenty dollars for every offence; also the sum of one dollar for every hour that the nuisances or substances mentioned in the previous section of this ordinance are suffered to remain after due notice thereof.

#### **Offensive Substances Not to Be Thrown into Wells.**

SECTION 7. No person shall throw, or cause to be thrown, into any well, cistern or fountain, any stones, bricks, or parts of bricks, dead animals, carrion or fish, offal or any other substance whatever, under a penalty of not less than five dollars nor more than fifty dollars.

#### **Unwholesome Provisions Not to Be Sold.**

SECTION 8. No person shall knowingly sell or offer for sale within the city any unwholesome, stale or putrid articles of provisions, nor any meat that has been blown, raised or stuffed, nor any measly pork, nor any diseased meat of any kind, under a penalty of not less than twenty dollars nor more than fifty dollars for each offence.

#### **Certain Fish to Be Cleaned before Bringing into City.**

SECTION 9. No person shall bring into the city for sale or shall sell or offer for sale any halibut, cod, haddock, hake, cusk, pollock or sword

fish, until they have been cleansed of their entrails and such refuse parts as are harmful to the well keeping of such fish.

### **Fresh Fish, Where Sold.**

SECTION 10. Fresh fish may be sold in any part of the city below high water mark; and no person shall sell fresh fish in any other part of the city, except as hereinafter provided, under a penalty of five dollars for each offence. But the mayor and aldermen may assign places for selling the same above high water mark, under such rules and regulations as said board may, from time to time, prescribe. Before, however, any place shall be so assigned, a written petition shall be presented to the board therefor, setting forth in detail the provisions proposed to be made for guarding against injury to the public health, and if such provisions are approved by the board of health the mayor and aldermen may assign such place for the purpose of selling fresh fish. Whenever, in the opinion of said board, less the public health requires the revoking such assignment, they shall at once revoke the same, with or without notice, as they shall see fit.

### **Same.**

SECTION 11. Nothing contained in the previous sections shall prevent any person from carrying and selling fresh fish, free from offal, in any part of the city during the year, in carts or vehicles suitably covered to preserve the fish from the sun, except that from the first day of June to the first day of September they shall not be carried and sold, as aforesaid, between the hours of 9 A. M. and 4 P. M. under a penalty of five dollars for each offence.

### **Health, Fowls, Animals — Keeping of.**

SECTION 12. No person or persons having the care of any domestic fowls, swine, cows or other animals, shall keep the same within the limits of the City of Portland contrary to the order of the board of health. Any person who violates the provisions of this section shall be punished by a fine not exceeding twenty dollars for each offence.

### **Regulations Respecting Hogsties.**

SECTION 13. If any person shall erect, place or continue any hogsty within the limits of the city proper, or upon any island within the city contrary to the order of the board of health, such person shall forfeit and pay for every such offence, the sum of five dollars for every

week during which any hog or swine shall be kept or continued in such sty.

### **House Offal — To Be Taken Away.**

SECTION 14. All house offal, whether consisting of animal or vegetable substances, shall be deposited in convenient vessels, and be kept in some convenient place, to be taken away by such person or persons as shall be appointed by the sanitary committee for that purpose.

### **Swill to Be Delivered to Such Persons.**

SECTION 15. All persons shall promptly deliver the offal so accumulated on their premises to the person appointed as aforesaid to receive the same. And if any person shall neglect to provide suitable vessels for the deposit of such house offal, or shall in any way hinder or delay the person so appointed to receive it, in the performance of his duty aforesaid, he shall forfeit and pay a sum not less than two nor more than twenty dollars for each and every offence.

### **Sanitary Committee, Duties of.**

SECTION 16. The collection of house and fish offal, and the disposal of the same; and the cleansing of street culverts and catch basins, shall be under the charge of a committee consisting of three members of the board of mayor and aldermen, to be known as the sanitary committee; but all matters relating to privy vaults and the collection and disposal of night soil shall be under the direction of the board of health.

### **No Other Person to Collect Offal — Penalty.**

SECTION 17. No person shall go about collecting any house offal, consisting of animal or vegetable substances, or carry the same through any of the streets, lanes, or courts of the city, except the person appointed as aforesaid, or his deputy, under a penalty of not less than two nor more than twenty dollars for each and every offence.

### **Spitting in Certain Places Forbidden.**

SECTION 18. No person shall spit upon any floor of any street car, public building or place of amusement. Whoever violates any of the provisions of this section shall, on conviction, be punished by a fine not exceeding twenty dollars.

**Hides or Leather Not to Be Exposed in Streets.**

SECTION 19. No person shall hang or spread, or expose in any street, lane, alley, court or public place, any raw, dried, tanned or dressed skins, hides or leather, under a penalty of not less than three or more than ten dollars for each offence.

**Harbor Master and City Physician to Perform Duty in Reference to Quarantining Vessels.**

SECTION 20. The harbor master and city physician shall perform such duties, relative to quarantining vessels, as may be required by the mayor and aldermen, and shall receive therefor such fee and expenses from each vessel visited, liable to be quarantined, as may be fixed by the mayor and aldermen.

**Vaults and Privies in Unhealthy Condition to Be Cleansed —  
In Case of Neglect or Refusal to Be Done by Board  
of Health at Expense of Owner.**

SECTION 21. Whenever any vault, privy, or drain, shall, in the opinion of the board of health, by its filth or dirt, become dangerous to the health, or prejudicial to the comfort of the citizens, the agent, occupant, or other person having charge of the land in which any vault, privy, or drain may be situated, the state and condition of which shall be in violation of the provisions of this ordinance, shall remove, cleanse, alter, amend, or repair the same, within a reasonable time after notice in writing to that effect, given by the board of health. In case of neglect or refusal for the space of five days the board of health shall cause the same to be removed, cleansed, altered, amended or repaired, as they may deem expedient, at the expense of owner, agent, occupant, or other person, as aforesaid.

**Board of Health May Remove Persons from Tenements  
Where Too Numerous or Unprovided with Vaults —  
Penalty.**

SECTION 22. Whenever, upon due examination, it shall appear to the board of health that the number of persons occupying any tenement or building in the city, is so great as to be the cause of nuisance and sickness, and the source of filth, or that any tenements or buildings are not furnished with suitable vaults, privies, or drains, they may thereupon issue their notice in writing to such persons, or any of them,

requiring them to remove from and quit, such tenement or building within such time as the board of health shall deem reasonable. And if the person or persons so notified, or any of them, shall neglect or refuse to remove and quit, within the time mentioned in such notice, the board of health is hereby authorized and empowered, thereupon forcibly to remove them, and to close up such tenement, and the same shall not be again occupied as a dwelling place under a penalty of not less than fifty dollars, to be recovered of the owner or owners if they shall have knowingly permitted the same to be occupied.

### **Building of Privy Vaults.**

SECTION 23. If any person shall erect or set up, or cause to be erected or set up, or shall continue any necessary or privy within nine feet of any street, lane or alley, court, square or public place, or within a like distance of any adjoining lot, dwelling house, shop or well, or any public building, such person shall forfeit and pay five dollars, and a further penalty of five dollars for every month the necessary or privy shall continue and so remain. Provided, that these penalties shall not be incurred in any case where there is a necessary or privy already erected, or where one may hereafter be erected with a vault under such necessary, the size of which shall not be less than six feet deep and contain not less than one hundred and twenty-eight cubic feet, and enclosed with bricks well laid in waterproof cement.

### **No Vault to Be Connected with Sewer — Penalty.**

SECTION 24. From after the fifteenth day of November, A. D. 1888, no connection shall be made by a drain, whether trapped or untrapped, between any privy vault and a public sewer. Any person who shall make such connection or shall cause such connection to be made, shall be subject to a penalty of not less than five, nor more than twenty dollars, and a further penalty of five dollars for each month that such drain is allowed to remain.

### **Emptying of Vaults Forbidden Except by License — Bond.**

SECTION 25. No person, except as hereinafter provided, shall empty or remove the contents of any privy vault within the limits of the City of Portland, or attempt so to do. The board of health, annually, shall license in writing such number of persons as they may judge necessary to open, clean out, and remove the contents of privy vaults, subject to dismissal for cause, and subject to the ordinances of the city and all

present and future regulations of the board of health. Each person thus appointed shall execute to the city a bond in the penal sum of two hundred dollars, with sufficient surety or sureties, conditional that he will speedily and faithfully perform the work and will observe all the laws of the State, ordinances of the city, and regulations of the board of health in opening, cleaning and emptying vaults.

### **Shall Provide Appliances to Carry on the Work.**

SECTION 26. Each person, so appointed, before doing any work, shall provide himself with such appliances as may be prescribed by the board of health, and shall receive for each load of night soil, taken from any privy vault and transported and buried in a place, at least three feet below the surface of the ground, to be approved by said board, such sum as the board of health may from time to time determine.

### **Permit, How Granted.**

SECTION 27. Each person so licensed, before opening or emptying any privy vault, shall obtain a permit in writing from the board of health, or some person appointed to issue such permit, and in such permit, shall be prescribed under what conditions such removal shall be made.

### **Penalty.**

SECTION 28. Any person violating any of the provisions of the foregoing sections shall forfeit and pay to the use of the city not less than three dollars nor more than twenty dollars.

## **INTERMENT OF THE DEAD.**

### **Superintendent of Burials — Authority.**

SECTION 29. The department relative to the interment of the dead shall be placed under the control of one superintendent to be called the superintendent of burials, who shall, ex officio, be an undertaker, whose duty it shall be, and he shall have power, to carry into execution all power and authority vested in the city council relative to the interment of the dead, and the regulations of funerals and funeral processions, subject always to the authority and control of the mayor and aldermen; and it shall be the duty of said superintendent to carry into effect the ordinances of the city council and the laws of the State relative thereto.

**Superintendent to Be Chosen Annually—To Be Sworn and Give Bonds.**

SECTION 30. Said superintendent shall be appointed annually, on the second Monday of the month of January, or as soon thereafter as may be, by the mayor, by the advice and consent of the aldermen, and he shall hold his office for one year, and until another be chosen, unless previously removed by the mayor, by the advice and consent as aforesaid, and in case of vacancy in said office on account of removal, death, or resignation, the mayor shall appoint a successor for the remainder of the year; and the said officer shall receive such compensation as the city council shall deem reasonable, and he shall be sworn to the faithful execution of his office, and shall give such bonds for the faithful performance of his duties, as shall be satisfactory to the mayor and aldermen.

**Duties of Superintendent of Burials.**

SECTION 31. It shall be the duty of said superintendent to designate the place, depth and width of every grave dug therein, to cause said graves to be dug in exact ranges and parallel with the lines as laid out in said cemetery, and as near to each other as he may think proper, and to take care that said graves be so filled and elevated that water may not remain thereon; and he shall record in a book to be kept for that purpose, the name, age and sex of each person interred, the family to which the deceased belonged, the disease of which he or she died, and whether resident or stranger, the time when interred, the number and range of the grave or tomb, etc., and report to the city council, in the month of December, annually, a list of such interments during the preceding year, specifying the particulars aforesaid as recorded.

**Undertaker to Be Appointed and Licensed by Mayor and Aldermen—May Employ Porters—May Be Removed—Undertakers Not Licensed Prohibited from Acting As Such—Penalty.**

SECTION 32. A sufficient number of undertakers shall annually, on the second Tuesday of March, or as soon thereafter as may be, be appointed and licensed by the mayor, by the advice and consent of the aldermen, who shall hold their offices one year, or until others are appointed in their stead, and who shall be responsible for the decent, orderly and faithful management of the funerals undertaken by them, and a strict compliance with the ordinances of the city in this behalf.

Each undertaker may employ porters of decent and sober character to assist him, and shall be accountable to the mayor and aldermen for their conduct, and said undertakers and porters shall always be removable at the pleasure of the mayor. And all persons not licensed as undertakers as aforesaid, are hereby forbidden and prohibited from undertaking the management of any funeral, under a penalty of not less than ten nor more than twenty dollars for each offence.

#### **Bodies Not to Be Interred without Permit.**

SECTION 33. No person shall bury or inter, or cause to be buried or interred, or deposit in the city tomb, any dead body, without first having obtained a license so to do from the city clerk or sub-registrar, as requested by law. And no person shall bury or inter, or cause to be buried or interred, any dead body, at any other time of the day than between sunrise and sunset, except when otherwise ordered by the superintendent of burials.

#### **Undertaker's Fees.**

SECTION 34. The undertakers shall be allowed to charge and receive the following fees for their services, to wit: For services and interring an adult in Evergreen Cemetery, including hearse and porter's fee, seven dollars; and for a child, five dollars. For interring in either cemetery in the city, including hearse and porter's fee, five dollars; and for a child, four dollars.

For opening church and carrying the body into the same for funeral services, an additional fee of two dollars. For taking up body from either cemetery within the city, and removing and interring the same in Evergreen Cemetery, five dollars; for every additional body taken up, removed and interred aforesaid at the same time, three dollars.

For taking up and removing the body of a child to Evergreen Cemetery, three dollars and fifty cents.

For services attending funeral and depositing the body of an adult in the city tomb, four dollars; for removing and interring the same in Eastern Cemetery, one dollar and fifty cents; in Western Cemetery, two dollars.

For attending funeral services and depositing the body of a child in the city tomb, three dollars; for removing and interring the same in Eastern Cemetery, one dollar; in Western Cemetery, one dollar and fifty cents.

See Ordinances on Evergreen Cemetery.



**Depth of Graves.**

SECTION 35. All graves for adult persons shall be dug not less than five feet deep; and the depth for children shall be left to the discretion of the superintendent. The corpse of every person of eight years old and upward shall be conveyed to the place of interment in a funeral car.

**No Body to Be Removed from City without Permission of Superintendent — Superintendent to Attend to Removal.**

SECTION 36. If any person shall be desirous to remove out of the city the body of a deceased person for interment, he shall make application to the superintendent of burials for permission so to do, and said superintendent shall grant such permission if no cause shall appear for withholding the same, and shall attend to such removal in person, or employ one of the undertakers of the city to attend thereto; and for a permit for such removal, the superintendent shall be entitled to receive the sum of twenty-five cents.

**Undertakers to Make Returns to Superintendent.**

SECTION 37. Every undertaker shall, within twenty-four hours after attending the interment of any deceased person, make a return in writing to the superintendent of burials, of the name, age and sex of the deceased, the names of parents when known, date of death, whether resident or stranger, and the date and place of interment.

**Bodies in City Tomb to Be Removed, Except, Etc.**

SECTION 38. All bodies that are or may be deposited in the city tomb, waiting burial in any of the cemeteries belonging to the city, shall be removed therefrom, on or before the fifteenth day of May of each year, unless they shall be suffered to remain by special permission from the superintendent of burials.

**Superintendent to Remove Bodies.**

SECTION 39. If the requirements of the preceding sections are not complied with, it shall be the duty of the superintendent of burials to remove all such bodies from said tomb, and properly inter the same, at the expense of the parties interested.

**Bodies Not to Be Interred in City Cemeteries, Except, Etc.**

SECTION 40. No person shall bury or inter, or cause to be buried or interred, any dead body in either of the cemeteries within the city,

except in family tombs or lots, or plats that have heretofore been assigned for family burying grounds, and in which there may be sufficient space for the interment of dead bodies.

#### **Mayor and Aldermen Authorized to Close Tombs, Etc.**

SECTION 41. Whenever the mayor and aldermen deem that any additional interments in any family tomb, lot or plat, in either of the cemeteries within the city would be injurious to public health, they are hereby authorized to order that such tomb, lot or plat shall be closed, and to forbid the same to be used thereafter for the purpose of interment.

#### **Mayor and Aldermen to Make Regulations, Etc.**

SECTION 42. The mayor and aldermen are authorized to make and adopt any regulations in relation to the interment of the dead, which they may deem expedient, not inconsistent with the foregoing provisions.

#### **Drivers of Hacks and Other Vehicles Forbidden to Transport Dead Bodies without Permit.**

SECTION 43. No driver of any hack, job wagon or express wagon, or any other vehicle, except a duly appointed and licensed undertaker, shall transport through this city, or from one place to another in this city, any dead body which is to be buried in any cemetery belonging to the city, without permission of the superintendent of burials, under a penalty of twenty dollars for each offence, to be recovered for the use of the city by complaint before the judge of the Municipal Court of Portland.

#### **Penalties for Violation of Foregoing Provisions.**

SECTION 44. Any person who shall be guilty of any violation of any of the provisions of this ordinance in relation to which a penalty is not prescribed, shall for each and every offence, forfeit and pay a sum not less than five nor more than twenty dollars, to be recovered by complaint before the Municipal Court, or by action in the name of the city.

#### **Rules for Opening Graves.**

SECTION 45. Whenever a grave shall be opened in any cemetery belonging to the City of Portland (except Evergreen Cemetery) for the burial or removal of a body, in said cemetery, the undertaker under

whose direction the work is done shall observe all rules of the commissioners of cemeteries and public grounds relative to the condition in which the ground around said grave shall be left; and the undertaker shall remove all earth, rocks and other material, under such rules, at his own expense.

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## RULES AND REGULATIONS OF THE BOARD OF HEALTH.

### **Vaults, Cesspools, Etc.**

SECTION 1. On and after the first day of June, 1887, no person shall be allowed to construct any privy vault, cesspool or any other receptacle or conductor for drainage for filth of any kind, in any locality within the city limits where access can be had for drainage to a public sewer. When upon proper complaint made in writing to the board of health, any privy vault, cesspool, receptacle or conductor, constructed and maintained prior to the adoption of these orders, shall, after careful and thorough investigation, be adjudged by the board of health to constitute a nuisance or a source of danger to the public health, such privy vault, cesspool, receptacle or conductor, shall forthwith be discontinued and abolished when the premises upon which said nuisance exists can be connected with the public sewer. When such nuisances exists in localities unprovided with proper street sewers, such disposition shall be made of them as the board of health may determine.

### **Swine.**

SECTION 2. Whenever any reasonable complaint is made regarding the keeping of any swine within the city limits, the inspector shall order said swine to be removed.

### **Refuse Matter — Removal of.**

SECTION 3. Any accumulation of refuse matter, such as swill waste of meat, fish or shells, bones, decayed vegetables, dead carcasses, excrement or any kind of offal which may decompose and generate disease germs or unhealthy gases and thus affect the purity of the air in the immediate vicinity of any dwelling house or place of business, shall be considered a nuisance, and must be removed or disposed of either by burial, burning or otherwise, and in such manner that it may not be offensive to the neighborhood wherever located.

**Diseased Meat — Adulterated Milk, Etc.**

SECTION 4. No diseased animal or its flesh and no decayed meat, fish, vegetables or fruit or impure or adulterated milk, nor any impure or adulterated article used for food, shall be sold or offered for sale as food.

(Approved by William Wirt Virgin, one of the Justices of the Supreme Judicial Court, May 16, 1887.)

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**RULES AND REGULATIONS RELATING TO QUARANTINE INSPECTION.**

Adopted by the Board November 28, 1891.

From and after this date the following Rules and Charges will be enforced at this port:

**What Vessels Must Anchor at Quarantine.**

SECTION 1. All vessels arriving at this port with plague, cholera, small pox, yellow fever, typhus fever, or other contagious disease on board, or having had the same during the voyage, must be directed by the pilot or harbor master to anchor on quarantine ground, and remain there until released by written order of the board.

**Same.**

SECTION 2. Any vessel arriving from a foreign port with or without sickness on board, and not having a clean bill of health from consular officer at port of clearance, will be directed by the pilot or harbor master to anchor at quarantine, and remain until released by written order of the board.

**Same.**

SECTION 3. All vessels or steamships arriving from European or Asiatic ports will be compelled to anchor at quarantine, and remain until inspected under direction of, and released by written order of the board; unless special permission shall be given in writing to allow any such vessel to come to its wharf for inspection there, in which case no person shall enter or leave the vessel until permitted by written order of the board.

**Inspection of Vessels.**

SECTION 4. Inspection shall be made promptly as soon as notice of arrival shall be received, but only during the hours of daylight, or from 8 A. M. to 6 P. M., and the charges will be as follows, to wit:

For each sailing vessel, five dollars, \$ 5 00

For each steamship carrying freight only, ten dollars, 10 00

For each steamship carrying passengers, ten dollars, 10 00

In all cases the quarantine officer making the inspection shall collect the charges made against any vessel either in currency or captain's draft on consignee, and account for the same to the board.

(Approved by Thomas H. Haskell, Justice of the Supreme Judicial Court, December 4, 1891.)

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**RULES AND REGULATIONS RELATING TO SANITARY  
CONDITION OF BUILDINGS.**

Adopted September 25th, 1890.

**Buildings to Be Furnished with Suitable Water Closets.**

SECTION 1. All shops, stores or buildings used, occupied or let for the purpose of manufacture or trade shall be furnished with suitable and sufficient water closets and urinals, which in respect to their construction and supply of water shall be satisfactory to the board of health; and any person or persons who shall use, occupy or let any building or tenement in which trade or manufactures are carried on, and shall not furnish the same with suitable and sufficient water closets and urinals satisfactory to the board of health, shall be subject to a penalty of five dollars for each offence, and five dollars additional for each month that the offence shall be allowed to continue.

(Approved by William Wirt Virgin, Justice of the Supreme Court, October 3, 1890.)

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**RULES AND REGULATIONS RELATING TO THE SALE OF  
MILK WITHIN THE CITY OF PORTLAND, MAINE.****Cows to Be Examined.**

SECTION 1. No person shall at any time, by himself, his clerk, servant or agent, directly or indirectly, sell or offer for sale, or keep with intent to sell, any milk or cream within the City of Portland, or

bring the same therein for the purposes of sale, unless the cows from which the same shall have been taken shall have been examined by tuberculin test or otherwise, sufficient to determine the physical condition of the cow, applied by some veterinarian approved by this board, and a certificate of such examination, giving the name and residence of the owner or keeper of the cow, and a description sufficient for her identification, and the place and conditions as to the food and drink furnished, or to be furnished such cow, and showing that such cow is healthy and free from disease, shall have been filed with the secretary of this board.

### **Certificates.**

SECTION 2. Veterinarians for such examination may be approved and their approval revoked at any time, but their certificates shall remain in force one year and no longer.

### **Penalty.**

SECTION 3. Any violation of the foregoing By-laws by any person or corporation shall be deemed a misdemeanor, and upon conviction thereof such person or corporation shall be punished by a fine of not more than fifty dollars, and all By-laws upon the subject to which these By-laws relate heretofore ordained by this board, are hereby revoked.

(Approved by Thomas H. Haskell, Associate Justice of the Supreme Judicial Court, June 29, 1897.)

(For ordinances relating to sale of milk, see "Milk," *post.*)

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## **RULES AND REGULATIONS OF BOARD OF HEALTH RELATING TO VACCINATIONS.**

SECTION 1. Hereafter children will not be permitted to attend school in the City of Portland unless they have been properly vaccinated, although otherwise entitled to admission.

(Approved December 12, 1900, by S. C. Strout, Justice of the Supreme Judicial Court.)

## **CHAPTER 50.**

# **HISTORY OF THE CITY.**

**Statute.**

**City Authorized to Procure History — Towns Authorized to Procure Histories and Raise Money Therefor.**

SECTION 1. Cities and towns may raise money to procure the writing and publication of their histories. (R. S., Chapter 3, Section 47.)

## **CHAPTER 51.**

# **HOUSE OF CORRECTION.**

### **Statutes.**

#### **Town Houses of Correction, and Their Object.**

SECTION 1. A town, at its own expense, may build and maintain a house of correction, or may appropriate for such purpose in part or in whole any workhouse owned by the town; and any person belonging to or found in such town, liable to be sent by a trial justice to the county house of correction, may be sent to such town house by any justice of such town, and by the like process; but this section shall not restrain such justice from committing any person so liable to the county house of correction; and the respondent may appeal as in other cases. (R. S., Chapter 141, Section 15.)

#### **Overseers Thereof.**

SECTION 2. The selectmen of such town shall annually appoint three, five or seven discreet persons overseers of such house, and may establish, from time to time, such rules and orders not repugnant to law, as they deem necessary for governing and punishing persons lawfully committed thereto. (Ib., Section 16.)

#### **Of Workhouses for Like Uses.**

SECTION 3. When a workhouse is so appropriated for a house of correction the master thereof shall be master of the house of correction; but in other cases the overseers thereof shall appoint a suitable master, removable at their pleasure. (Ib., Section 17.)

#### **Pay of Overseers and Master.**

SECTION 4. The overseers and master of such town house of correction shall have such compensation as is annually voted by their towns. (Ib., Section 18.)



### **Duties of the Overseers.**

SECTION 5. The overseers, from time to time, shall examine into the prudential concerns and management of such house, and see that the master faithfully discharges his duty. (Ib., Section 19.) 76 Me. 324.

### **Support of the Prisoners.**

SECTION 6. Every person committed to such town house of correction shall be supplied by the keeper with a suitable quantity of bread and water, or other nourishment, as the overseers order; and all expenses incurred for commitment and maintenance, exceeding the earning of the person confined, shall be paid by the parties liable for similar charges in the case of persons committed to a county house of correction. (Ib., Section 20.) 22 Me. 385, 51 Me. 457.

### **Powers of Overseers to Commit Persons.**

SECTION 7. The overseers of any such town house of correction may commit thereto, for a term not exceeding forty-eight hours, any person publicly appearing intoxicated, or in any manner violating the public peace, when his safety, or the good order of the community requires it, until he can be conveniently carried before a magistrate and restrained by complaint and warrant in the usual course of criminal prosecutions. (Ib., Section 21.) 62 Me. 120.

SECTION 8. The form of the order for commitment may be in substance as follows :

To A. B., master of the house of correction in the town of —: You are hereby required to receive and keep C. D. in said house of correction for — hours, unless sooner discharged by our order.

E. F., } Overseers of said house  
G. H., } of correction.

And any sheriff, deputy sheriff, constable or other person, to whom such order is given by said overseers, shall forthwith apprehend and convey such person to said house of correction, and deliver him to the master, thereof to be taken and kept agreeably to the order; and receive from the town such fees for service and travel as are allowed for service of warrants. (Ib., Section 22.) 29 Me. 467, 51 Me. 457.

## **CHAPTER 52.**

# **INDUSTRIAL SCHOOL.**

**Statute.**

### **THE MAINE INDUSTRIAL SCHOOL FOR GIRLS.**

**Application to the Probate Judge or to a Magistrate for Commitment of Idle or Vicious Girls—Notice and Hearing—May Order Girls to Be Committed to the Industrial School When Her Welfare Requires It.**

SECTION 1. A parent or guardian of any girl between the ages of six and sixteen years, the municipal officers, or any three respectable inhabitants of any city or town where she may be found, may complain in writing to the judge of probate or any trial justice in the county, or to the judge of the Municipal or Police Court for such city or town, alleging that she is leading an idle or vicious life, or has been found in circumstances of manifest danger of falling into habits of vice or immorality, and request that she may be committed to the guardianship of the Maine Industrial School for Girls. The judge or justice shall appoint a time and place of hearing, and order notice thereof to all persons entitled to be heard, and at such time and place may examine into the truth of said allegations, and if satisfactory evidence thereof is adduced and it appears that the welfare of such girl requires it, he may order her to be committed to the custody and guardianship of the officers of said school during her minority, unless sooner discharged by process of law. (R. S., 1883, Chapter 142, Section 19.) 76 Me. 324.

## CHAPTER 53.

# INNOLDERS AND VICTUALERS.

### Statutes.

#### **License to Innholders and Victualers, When and by Whom Granted — Licenses May Be Revoked.**

SECTION 1. The municipal officer, treasurer, and clerk of every town shall meet annually on the first Monday of May, or on the succeeding day, or both, and at such time and place in said town as they appoint by posting notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innholders and victualers in said town, until the day succeeding the first Monday in May of the next year, in such house or other building, as the license specifies. And at any meeting notified and held they may revoke licenses so granted if in their opinion there is sufficient cause. (R. S., Chapter 27, Section 1.) 24 Me. 442, 25 Me. 171, 26 Me. 258, 82 Me. 341, 93 Me. 473.

(NOTE. "The innholder has no natural right to pursue the business of innholding. It is an exceptional privilege which may or may not be conferred upon him by the public authority, and his chance for obtaining a license is dependent upon whether the licensing board decides his appointment to be necessary and that he sustains a good moral character." 93 Me. 458.)

#### **Persons Licensed to Give Bond — Form.**

SECTION 2. No person shall receive his license, until he has given his bond to the treasurer, to the acceptance of the board granting it, with one or more sureties, in the penal sum of three hundred dollars, in substance as follows, viz.:

"Know all men, that we, ———, as principal, and ———, as sureties, are holden and stand firmly bound to ———, treasurer of the town or city of ———, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly

and severally by these presents. Sealed with our seals. Dated the — day of — in the year 19—. The condition of this obligation is such, that whereas the above bounden — has been duly licensed as a — within the said town or city of —, until the day succeeding the first Monday of May next; now if in all respects, he shall conform to the provisions of law relating to the business for which he is licensed, and to the rules and regulations, as provided by the licensing board in reference thereto, and shall not violate any law of the State relating to intoxicating liquors, then this obligation shall be void, otherwise remain in full force."

(Ib., Section 2.) 93 Me. 473.

### **Licenses May Be Granted for a Part of the Year.**

SECTION 3. The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on the like conditions; but all such licenses expire on the day aforesaid. (Ib., Section 3.)

### **Fee for License and Record of All Licenses.**

SECTION 4. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted. (Ib., Section 4.)

### **Duty of Innholders to Provide Entertainment.**

SECTION 5. Every innholder shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and with stable room, hay and provender for their horses and cattle, and with pasturing, if it is required by the terms of his license; and he shall grant such reasonable accommodations as occasion requires, to strangers, travelers and others. (Ib., Section 5.) 71 Me. 19, 316, 76 Me. 539.

### **Duty of Victualers.**

SECTION 6. Every victualer shall have all the rights and privileges and be subject to all the duties and obligations of an innholder, except furnishing lodging for travelers, and stable room, hay or provender for cattle. (Ib., Section 9.) 10 Me. 439, 16 Me. 122, 26 Me. 258.

### **Innholders and Victualers to Keep up Signs.**

SECTION 7. Every innholder and victualer shall, at all times, have a board or sign affixed to his house, shop, cellar or store, or in some conspicuous place near it, with his name at large thereon, and the employment for which he is licensed. (Ib., Section 10.)

**Not to Allow Gaming on Their Premises — Penalty.**

SECTION 8. No innholder or victualer shall have, or keep for gambling purposes about his house, shop, or other buildings, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or other implements used in gambling; or suffer any person resorting thither to use or exercise for gambling purposes, any of said games, or any other unlawful game or sport therein; and every person who uses or exercises any such game or sport for gambling purposes in any place herein prohibited, forfeits five dollars. (Ib., Section 11.)

**Reveling, Disorderly Conduct, Drunkenness, Prohibited, Etc.**

SECTION 9. No innholder or victualer shall suffer any reveling, or riotous or disorderly conduct in his house, shop, or other dependencies; nor any drunkenness or excess therein. (Ib., Section 12.)

**Penalty for Being a Common Innholder or Victualer without a License.**

SECTION 10. No person shall be a common innholder or victualer without a license, under a penalty of not more than fifty dollars. (Ib., Section 13.) 13 Me. 307, 15 Me. 473, 16 Me. 241, 65 Me. 363, 76 Me. 539, 89 Me. 443.

**Duty of Licensing Board to Prosecute.**

SECTION 11. The licensing board shall prosecute for any violations of the foregoing sections that come to their knowledge, by complaint, indictment, or action of debt; and all penalties recovered shall inure to the town where the offence is committed. Any citizen of the State may prosecute for any violation of any of the preceding sections of this Act in the same manner as the licensing board may prosecute. (Ib., Section 14.) 12 Me. 204, 65 Me. 363, 93 Me. 473.

**Innholders and Victualers Shall Not Allow Gambling, Diversion or Business on the Lord's Day — Penalty.**

SECTION 12. If an innholder or victualer, on the Lord's day, suffers any person, except travelers, strangers, or lodgers, to abide in his house, yard or field, drinking or spending their time idly, at play, or doing any secular business, except of charity or necessity, he shall be

punished by fine not exceeding four dollars for each person thus suffered to abide ; and if after conviction he is again guilty, by fine not exceeding ten dollars for each offence, and upon a third conviction, he shall also be incapable of holding any license ; and every person so abiding shall be fined not exceeding four dollars for each offence. (R. S., Chapter 124, Section 21.) 65 Me. 38.

## CHAPTER 54.

# INSANE PERSONS.

### Statutes.

#### **Municipal Officers to Decide on Cases and Commit to Hospital with Certificate — Keep a Record of Doings.**

SECTION 1. Insane persons, not sent to any insane hospital, shall be subject to examination, as hereinafter provided. The municipal officers of towns shall constitute a board of examiners, and, on complaint in writing of any relative or any justice of the peace in their town, they shall immediately inquire into the condition of any person in said town alleged to be insane; shall call before them all testimony necessary for a full understanding of the case; and if they think such person insane, and that his comfort and safety, or that of others interested, will thereby be promoted, they shall forthwith send him to the hospital, with a certificate, stating the fact of his insanity, and the town in which he resided or was found at the time of examination, and directing the superintendent to receive and detain him until he is restored or discharged by law, or by the superintendent or trustees. They shall keep a record of their doings, and furnish a copy to any interested person requesting and paying for it. (R. S., Chapter 143, Section 13.) 33 Me. 453, 35 Me. 404, 497, 40 Me. 263, 264, 280, 48 Me. 356, 63 Me. 500, 566, 65 Me. 521, 70 Me. 442, 78 Me. 377.

#### **May Certify Inability to Pay for His Support, and Treasurer May Charge State One Dollar Per Week.**

SECTION 2. The officers ordering the commitment of a person unable to pay for his support, may in writing certify that fact to the trustees, and that he has not relatives liable and of sufficient ability to pay for it; and if the trustees are satisfied that such certificate is true, the treasurer of the hospital may charge to the State one dollar and fifty cents a week for his board, and deduct it from the charge made to the patient or town for his support. (Ib., Section 14.) 63 Me. 566.

**Appeal to Two Justices of the Peace and Quorum—How Selected.**

SECTION 3. Any person or corporation, deeming himself or the insane aggrieved by the decision of the board of examiners for or against the fact of insanity, may claim an appeal therefrom within five days after the decision is made known, naming a justice of the peace and quorum on his part, and appointing a time within three days thereafter, and a place in such town for the hearing, and shall procure the attendance of such justice at such time and place, if in his power, and if not, may select another; and the board of examiners shall select another justice of the peace and quorum. (Ib., Section 15.)

**Municipal Officers or Justices Neglecting to Decide for Three Days, Complaint May Be Made, to Two Justices—Proceedings.**

SECTION 4. If the two justices neglect or refuse to decide the appeal within three days after the time appointed for the hearing, or if the municipal officers neglect or refuse for three days after complaint is made to them to examine and decide any case of insanity in their town, complaint may be made by any relative of the insane, or by any other respectable person to two justices of the peace and quorum; and the two justices, selected in either of the above modes, may call before them any proper testimony, and hear and decide the case. If they find the person insane, and that he will be more comfortable and safe to himself or others, they shall give a certificate for his commitment to the hospital like that described in Section 13. (Ib., Section 16.) 35 Me. 502, 63 Me. 557.

**Justices Shall Keep a Record of Their Doings—Their Compensation, and by Whom to Be Paid.**

SECTION 5. Such justices shall keep a record of their doings and furnish a copy thereof to any person interested requesting and paying for it; those deciding an appeal shall be entitled to receive for their services two dollars a day and ten cents a mile for their travel, and shall determine which party shall pay for it; those deciding an original case shall charge the same fees as for a criminal examination, to be paid by the person or corporation liable in the first instance for the support of the insane in the hospital. (Ib., Section 17.)



## **CHAPTER 50.**

# **HISTORY OF THE CITY.**

**Statute.**

**City Authorized to Procure History — Towns Authorized to Procure Histories and Raise Money Therefor.**

SECTION 1. Cities and towns may raise money to procure the writing and publication of their histories. (R. S., Chapter 3, Section 47.)

## **CHAPTER 51.**

# **HOUSE OF CORRECTION.**

### **Statutes.**

#### **Town Houses of Correction, and Their Object.**

SECTION 1. A town, at its own expense, may build and maintain a house of correction, or may appropriate for such purpose in part or in whole any workhouse owned by the town; and any person belonging to or found in such town, liable to be sent by a trial justice to the county house of correction, may be sent to such town house by any justice of such town, and by the like process; but this section shall not restrain such justice from committing any person so liable to the county house of correction; and the respondent may appeal as in other cases. (R. S., Chapter 141, Section 15.)

#### **Overseers Thereof.**

SECTION 2. The selectmen of such town shall annually appoint three, five or seven discreet persons overseers of such house, and may establish, from time to time, such rules and orders not repugnant to law, as they deem necessary for governing and punishing persons lawfully committed thereto. (Ib., Section 16.)

#### **Of Workhouses for Like Uses.**

SECTION 3. When a workhouse is so appropriated for a house of correction the master thereof shall be master of the house of correction; but in other cases the overseers thereof shall appoint a suitable master, removable at their pleasure. (Ib., Section 17.)

#### **Pay of Overseers and Master.**

SECTION 4. The overseers and master of such town house of correction shall have such compensation as is annually voted by their towns. (Ib., Section 18.)

they shall cause the selectmen of the town, or the mayor of the city from which such patient was received, to be immediately notified by mail; and on receipt of such notice said town or city shall cause such patient to be forthwith removed thereto; and if they neglect such removal for thirty days thereafter, such patient may be removed to said town or city by the trustees, or their order; and the superintendent may maintain an action in his own name, against such city or town, for the recovery of all expenses necessarily incurred in the removal of such patient. (Ib., Section 25.)

### **Towns of Less Than Two Hundred Inhabitants Not Liable for Removal.**

SECTION 14. The preceding sections do not apply to towns having less than two hundred inhabitants; but all insane persons found, and having their residence in such towns, who have no settlement within any town in the State, and have no means of their own for support, or are without relatives able and liable to support them, shall be supported in the hospital at the expense of the State. (Ib., Section 26.)

### **GUARDIANS FOR SUCH AS ARE SENT TO THE HOSPITAL.**

### **Judge of Probate May Appoint Guardians for Persons Sent to Hospital — Their Duties and Compensation.**

SECTION 15. When any man or unmarried woman, of twenty-one years of age, is sent under this chapter to the hospital for insanity, the municipal officers of the town where such insane person resides, when they think it for the interest of the insane and to prevent waste of his property, may apply to the judge of probate for the same county for the appointment of a guardian, and the judge, on their certificate to that effect, without notice to the insane, shall forthwith appoint some suitable guardian residing in such county, who shall give bond as in other cases, and have reasonable compensation for his services, to be allowed by the judge and paid out of the estate; but he shall not be required to return an inventory, or exercise any other powers or duties of guardian for one year after his appointment, except to provide for the support of the insane and his family, and prevent waste of his property. (Ib., Section 27.)

**Municipal Officers May Apply for Guardians for Certain Persons.**

SECTION 16. Guardians may be appointed for persons certified by the municipal officers of any town to have been committed by them to the insane hospital, and there remaining, upon proof of the facts, without further action of the municipal officers, or personal notice to the parties; and for insane or incompetent married women, after personal notice and a hearing upon proof of the alleged insanity or incompetency, without inquisition by the municipal officers of the town. In all cases where the municipal officers or overseers of the poor are applicants, if they have given at least fourteen days' notice to such person by serving him with a copy of their application, the judge of probate may adjudicate thereon without further inquisition, if such person is present, or on such further notice, if any, as he thinks reasonable. Or, if such officers have not given such notice, the judge of probate shall cause personal notice to be given to the party before the hearing and adjudication. (R. S., Chapter 67, Section 5.) 18 Me. 386, 87 Me. 44.

**When Inquisition Shall Be Made by Municipal Officers.**

SECTION 17. In all other cases the judge of probate shall issue his warrant to the municipal officers of the town where such persons reside, requiring them to make inquisition into the allegations made in the application; and if there be no such municipal officers the judge shall name three reputable persons, resident of the vicinity in which such person resides, to make such inquisition, and they shall upon such evidence as they are able to obtain, decide whether such allegations are true; and as soon as may be report the result to the judge, and on such report after personal notice to the party and a hearing thereon, he adjudges that such person is insane, a spendthrift or incapable as aforesaid, he shall appoint a guardian. (Ib., Section 6.) 18 Me. 386, 82 Me. 23.

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**RULES AND REGULATIONS OF THE BOARD OF MAYOR AND ALDERMEN.**

SECTION 1. No person shall be committed to the Insane Hospital at Augusta unless it be proven to the satisfaction of the board of mayor and aldermen that such person has received a copy of the complaint and a summons to appear before the said board and answer to said complaint. Such summons shall state the time and place of the hearing of said complaint, and shall be served by the city messenger at least twenty-four hours before the meeting of said board.

## **CHAPTER 55.**

# **INTELLIGENCE OFFICES.**

### **Statutes.**

#### **Municipal Officers May License Intelligence Offices — Penalty.**

SECTION 1. The municipal officers of any town may, on payment of one dollar each, grant licenses to suitable persons for one year, unless sooner revoked after notice and for cause, to keep offices for the purpose of obtaining employment for domestics, servants or other laborers, except seamen, or of giving information relating thereto, or of doing the usual business of intelligence offices; whoever keeps such an office without a license forfeits not exceeding fifty dollars for every day that it is so kept. The keeper of an intelligence office shall not retain any sum of money, in excess of one dollar, received from a person seeking employment through the agency of such intelligence office, unless employment of the kind sought for is actually furnished. The keeper of a licensed intelligence office shall cause two copies of this Act, printed in type of sufficient size to be legible and easily read, to be conspicuously posted in each room used or occupied for the purposes of such intelligence office. Whoever violates the provisions of this Act shall have the license revoked, and shall be punished by fine not exceeding twenty dollars for each offence. (R. S., Chapter 35, Section 6.)

#### **Fines, How Disposed of.**

SECTION 2. The penalties provided in this chapter may be recovered by complaint or indictment for the State, when not otherwise appropriated. (R. S., Chapter 35, Section 7.)

## **CHAPTER 56.**

# **JUNK AND SECOND-HAND DEALERS.**

### **Statutes.**

#### **Traffic in Junk, Metals, Etc.**

SECTION 1. Cities may establish ordinances regulating the purchase and sale of articles usually bought by old junk dealers, and may therein prescribe conditions to be observed by buyers and sellers, to prevent or detect the sale or purchase of stolen goods; and suitable penalties may be prescribed in such ordinances. (R. S., Chapter 3, Section 59, Par. XII.)

#### **Mayor and Aldermen Authorized to Grant Licenses.**

SECTION 2. The mayor and aldermen of the City of Portland may license such persons as they deem suitable to be keepers of shops for the purchase, sale, or barter of junk, old metals, bones, rags or of any second-hand articles, and to be dealers therein. (Special Laws of 1861, Chapter 63, Section 1.)

#### **License to Designate Place of Business, Etc.**

SECTION 3. The licenses to such persons shall designate the place where the business is to be carried on, and the persons licensed shall be subject to such conditions, restrictions and regulations as may be prescribed by the mayor and aldermen of said city, and the license shall continue in force for one year, unless sooner revoked. (Ib., Section 2.)

#### **Persons Not Licensed Liable.**

SECTION 4. No person, unless licensed as aforesaid, shall keep any shop or place for the purchase, sale or barter of the articles aforesaid or for the storage thereof or be a dealer therein; nor shall any person, so licensed, keep such shop, or be a dealer in said articles, in any other place or manner than as is designated in his license or after notice to him that said license has been revoked, under the penalty of twenty dollars for each offence, to be recovered by complaint in the Municipal Court for said city or by indictment. (Ib., Section 3.)

## RULES AND REGULATIONS OF MAYOR AND ALDERMEN.

### **Mayor and Aldermen May Grant Licenses.**

SECTION 1. The board of mayor and aldermen may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of junk, old metals, and second-hand articles.

### **Licensed Persons Only May Carry on Business — Shopkeeper and Dealer Defined.**

SECTION 2. No person shall carry on the business of buying, selling, bartering and dealing in junk, old metals, and second-hand articles, unless licensed as provided herein. Such license shall be issued for one year, shall not be assigned, and may be revoked at any time by the board of mayor and aldermen. The term "shopkeepers," as used herein, shall apply to any person who carries on said business in a shop, office, or other place of business. The term "dealer" shall apply to any person carrying on said business in any other manner.

### **Licensees to Keep Books Which Shall Be Open to Inspection.**

SECTION 3. Every such dealer and shopkeeper shall keep a book in which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when such purchase was made, and such book shall at all times be open to the inspection of the mayor, the board of aldermen, the city marshal, or either of the deputy marshals, or any person authorized by the mayor, or board of aldermen, or city marshal, or either of the deputy marshals, to make such examinations.

### **Shopkeepers to Have Signs on Shops, Etc.**

SECTION 4. Every such shopkeeper shall put, in some suitable and conspicuous place on his shop, office, or other place of business, a sign having his name and occupation legibly inscribed thereon in large letters.

### **Shops, Etc., to Be Inspected.**

SECTION 5. Every such shopkeeper shall allow his shop and all articles therein, and every such dealer and shopkeeper shall allow all old junk, old metals and second-hand articles in his possession or under his control, to be at all times examined by the mayor and board

of aldermen, or city marshal, or either deputy marshal, or by any person authorized by the mayor or board of aldermen, or city marshal, or either deputy marshal, to make such examination.

**Articles Not to Be Sold for One Week from Date of Purchase.**

SECTION 6. No such dealer or shopkeeper shall permit to be sold any such article purchased or received by him until at least a period of one week from the date of its purchase or receipt has elapsed, unless authorized to sell the same in less than one week by the mayor or city marshal or either deputy marshal.

**Shops Not to Open before Six O'clock A. M., and Not to Keep Open after Seven O'clock P. M.**

SECTION 7. No such shopkeeper shall have his shop open for the transaction of business, nor shall he purchase any of the aforesaid articles except between the hours of six o'clock in the morning and seven o'clock in the evening of any secular day, and this ordinance shall not be construed to authorize to doing any business on Sunday.

**Penalty.**

SECTION 8. Whoever violates any of the provisions of this ordinance shall be subject to a penalty of twenty dollars, to be recovered by complaint for the use of the city.



## **CHAPTER 57.**

# **JURORS.**

### **Statutes.**

#### **Board for Preparing Lists of Jurors, Etc.**

SECTION 1. The municipal officers, treasurer, and clerk of each town constitute a board for preparing lists of jurors to be laid before the town for their approval; and the town, in legal town meeting, by a majority of the voters assembled, may strike out such names as they think proper from such lists, but shall not insert any others. (R. S., Chapter 106, Section 1.

#### **How Lists Are to Be Prepared.**

SECTION 2. Such board, at least once in every three years, shall prepare a list of persons under the age of seventy years, qualified to serve as jurors; and in preparing such list they shall take the names of such persons only as are of good moral character, of approved integrity, of sound judgment and well informed, and qualified as the constitution directs to vote for representatives in such town. When a new list is made, the municipal officers shall transfer from the old to the new tickets of the same persons, the minutes of the draft made within the three preceding years. (Ib., Section 2.) 79 Me. 120.

#### **Persons Exempted from Serving.**

SECTION 3. The following persons are exempt from serving as jurors, and their names shall not be placed on the lists: the governor, councillors, judges and clerks of the common law courts, secretary and treasurer of the State, all officers of the United States, judges and registers of probate, registers of deeds, settled ministers of the gospel, officers of colleges, preceptors of incorporated academies, physicians and surgeons, cashiers of incorporated banks, sheriffs and their deputies, coroners, counsellors and attorneys at law, county commissioners, constables, all persons engaged in the unlawful traffic in intoxicating

liquors or who are known to be habitually addicted to the use of intoxicating liquors as a beverage, and constant ferry-men. Enginemen shall be excused unless towns otherwise decide. (Ib., Section 3.) 26 Me. 360, 51 Me. 395, 53 Me. 328, 79 Me. 120.

(See title "Fire Department.")

#### **Tickets of Names to Be Kept in Jury Box.**

SECTION 4. After the list of jurors is approved by the town, the board shall write their names upon tickets, and place them in the jury box, to be kept by the town clerk; and the persons whose names are in the box are liable to be drawn and to serve on any jury, at any court for which they are drawn, once in every three years and not oftener, except as herein provided. (Ib., Section 4.)

#### **Number Required to Be Kept in Jury Box, Etc.**

SECTION 5. Each town shall provide, and constantly keep in the box, a number of names ready to be drawn when required, not less than one, nor more than two for every hundred persons in the town, according to the census taken next before preparing the box; and the board shall withdraw from it the name of any person convicted of any scandalous crime, or guilty of any gross immorality. (Ib., Section 5.) 64 Me. 549.

#### **Commissioners to Divide the County into Jury Districts, Etc.**

SECTION 6. Within one year after every new census, and oftener if a considerable change of population renders it proper, the county commissioners shall divide their county into not less than four, nor more than twelve districts numerically designated; and they shall place as many adjoining towns in each district, as will make the number of inhabitants in each, according to the last census, as nearly equal as may be, without dividing a town; and shall deliver a copy of such division immediately to the clerk of the courts in their county. (Ib., Section 6.) 65 Me. 161.

#### **Rule by Which the Clerk Shall Issue Venires.**

SECTION 7. The grand and traverse jurors shall be drawn from each jury district in such manner as to cause jurors, at each term of court, to come from every part of the county as equally as may be, and, so far as practical, from every town in rotation, having regard to the number of its inhabitants, taking not more than two grand jurors

and two traverse jurors from the same town at the same time, unless from necessity, or some extraordinary cause, or to equalize the service; and the clerk of courts shall issue venires to the constables of towns, and the constables, marshal and deputy marshal of cities accordingly. (Ib., Section 7.) 38 Me. 201, 65 Me. 161, 67 Me. 332.

#### **Venires — Grand Jurors to Serve One Year, Etc.**

SECTION 8. Venires for grand jurors, to serve at the Supreme Judicial and Superior Courts, shall be issued forty days at least before the second Monday of September annually; and they shall serve at each term for the transaction of criminal business during the year. Venires for traverse jurors shall be seasonably issued before each term of court, and at such other times as the court orders. (Ib., Section 8.) 66 Me. 148, 67 Me. 328, 332.

#### **Jurors to Attend on the First Day of the Term, Etc.**

SECTION 9. The grand and traverse jurors shall attend on the first day of the term for which they are drawn and summoned; unless the court designates a different day; and if so, the venire shall specify such day. (R. S., Chapter 106, Section 15.)

#### **Venires, Duties of Sheriffs in Relation to Distribution of — Constable Shall Notify Inhabitants, Etc. — Notice, How Given.**

SECTION 10. The sheriff on receiving such venires shall immediately send them to the constables of the towns where directed, and each constable on receipt thereof shall notify the voters of the town, and especially the municipal officers and town clerk, by posting notices in two public and conspicuous places therein, and by delivering to at least two of the municipal officers and the town clerk written notice of said meeting at least four days before such meeting, to assemble and be present at the draft of jurors called for; which shall be six days at least before the time when they are ordered to attend court.. (Ib., Section 9.) 64 Me. 533, 67 Me. 335.

#### **Mode of Drawing Jurors, Etc.**

SECTION 11. The town clerk, or, in his absence, one of the municipal officers, shall carry the jury box into the meeting, and it shall there be unlocked, and the tickets mixed by a majority of said officers present; and one of them shall draw out as many tickets as there are jurors

required, and the persons whose names are drawn shall be returned as jurors unless they have served on the jury within three years, or from sickness, or absence beyond sea, or without the limits, or in distant parts of the State, they are considered by the town unable to attend. (Ib., Section 11.)

### **Same Subject.**

SECTION 12. In either of said cases, or if a person is drawn who has been appointed to an office exempting him from serving, others shall be drawn in their stead; but any person thus excused, or returned and attending court, and there excused, shall not be excused on another draft, though within three years; and when all the persons whose names are in the box, have served within three years, or are not liable to serve, the selectmen shall draw out the required number of those who have not served for eighteen months; and the clerk shall certify on the venire that all persons whose names are in the box have served within three years, or are not liable to serve. (Ib., Section 12.)

### **Date of Draft to Be Indorsed on the Ticket.**

SECTION 13. When a juror is drawn and not excused by the town, the municipal officers who drew his ticket shall indorse thereon the date of the draft and return it into the box. (Ib., Section 13.)

### **Constables to Notify Jurors and Return Venires.**

SECTION 14. A constable of a town or the constables, marshals, or marshals of cities, shall notify the persons thus drawn four days at least before the sitting of the court, by reading the venire and the indorsement thereon to them, or leaving at their usual place of abode a written notice that they have been drawn, and of the time and place of the sitting of the court where they must attend; and shall make a seasonable return of the venire with his doings thereon. (Ib., Section 14.) 5 Greenleaf 333, 335.

### **Penalty for Neglect of Officers.**

SECTION 15. If the municipal officers or town clerk neglect to perform their duties herein required, so that the jurors called for from their town are not returned, they shall be fined not less than ten nor more than fifty dollars each. (Ib., Section 16.)

**Penalty for Neglect of Constable or Town.**

SECTION 16. Any constable, neglecting to perform his duties herein required, shall be fined not exceeding twenty dollars; and any town for a like neglect of its duties shall be fined not exceeding one hundred dollars. (Ib., Section 17.)

**Penalty for Neglect of Juror to Attend.**

SECTION 17. Any juror who, after being notified and returned, unnecessarily fails in his attendance, shall be fined as for contempt, not exceeding twenty dollars, unless he resides in Portland, and then not exceeding forty dollars. (Ib., Section 19.)

**Penalty for Fraud by Town Officers.**

SECTION 18. Any town clerk or municipal officer, who commits a fraud on the box previous to the draft, in drawing a juror or in returning a name which had been fairly drawn into the box, and drawing another in its stead, or in any other mode, shall be fined not exceeding two hundred dollars, half to the State and half to the prosecutor. (Ib., Section 20.)

## CHAPTER 58.

# LEATHER AND HIDES.

### Statutes.

#### **Manufacturer of Leather, Boots and Shoes May Stamp His Name Thereon, Etc.**

SECTION 1. Every manufacturer of leather, and of boots and shoes of any description, has the exclusive right of stamping them with the initials of his Christian name and the whole of his surname; and such stamping is a warranty that the article is merchantable, and well made of good materials; and if any person fraudulently stamps any such articles with the name or stamp of any other person, he shall be fined not exceeding twenty dollars, or imprisonment not exceeding six months. (R. S., Chapter 39, Section 32.)

#### **Appointment, Oath, Duties and Fees of Inspectors of Sole Leather.**

SECTION 2. The municipal officers of each town, when they deem it expedient, may appoint one or more suitable inspectors of sole leather, who shall be sworn, and receive such fees from their employer, as said officers establish; and when paid by the seller, to be repaid to him by the buyer; when requested, they shall go to any place in their town to inspect any sides of sole leather, which had not been inspected in this State according to law. (Ib., Section 33.)

#### **Mode of Inspecting and Stamping Sole Leather, Etc. — For Provisions Relating to Weighing of Hides and Leather.**

SECTION 3. Each inspector shall provide himself with a proper apparatus, with which he shall weigh and stamp every side of sole leather inspected by him, with the weight thereof, his surname, and the name of his town; and on all sole leather made of good hides, and in the best manner, the word, "best," shall be stamped; on all made of such hides in a merchantable manner, the word, "good;" and on all other, the words, "second quality," "third quality," "damaged" or

“bad,” according to the fact ; and whoever counterfeits, alters or defaces such mark, forfeits twenty dollars for each offence, half to the town and half to the prosecutor. (Ib., Section 34.)

**Assessors to Be Furnished with Account of Hides and Leather on Hand, for Taxation.**

SECTION 4. Persons engaged in tanning leather in the State, shall, on or before the first day of each April, furnish to the assessors of the town where they are carrying on said business, a full account, on oath, of all hides and leather on hand received by them from without the State, and all hides and leather on hand from beasts slaughtered in the State, which last named hides and leather shall be taxed in the town where they are tanned. (R. S., Chapter 6, Section 14, Par. II.)

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**ORDINANCE.**

**Hides or Leather Not to Be Exposed in Streets.**

SECTION 1. No person shall hang or spread, or expose in any street, lane, alley, court or public place, any raw, dried, tanned or dressed skins, hides or leather, under a penalty of not less than three nor more than ten dollars for each offence.

## **CHAPTER 59.**

# **LIBRARIES.**

### **Statutes.**

#### **Towns May Establish Public Libraries — May Raise Money Therefor.**

SECTION 1. Any town may establish a free public library therein for the use of its inhabitants, and provide suitable rooms therefor, under such regulation for its government as the inhabitants from time to time prescribe, and may appropriate for the foundation and commencement of such library a sum not exceeding two dollars, and for its maintenance and increase annually a sum not exceeding one dollar for each of its ratable polls in the year next preceding. (R. S., Chapter 55, Section 9.)

#### **City May Receive Devises and Gifts for Public Library.**

SECTION 2. Any city, town or plantation, as such, may receive, hold and manage devises, bequests or gifts for the establishment, increase or maintenance of a public library therein. (Ib., Section 10.)

#### **State to Pay Ten Per Cent. of Amount Expended by Town for Support of Public Library.**

SECTION 3. The municipal officers in any town or city where a free public library is established, shall annually, on the first day of May, certify to the governor and council the amount of money appropriated and expended by said town or city during the preceding year, for the purchase of books and documents for the use and benefit of such free public library, and for the payment of the running expenses thereof; and the governor, with the advice and consent of the council, shall draw a warrant on the State treasurer for the purchase of books for the use of such library, for a sum equal to ten per cent. of the amount expended by said town, as certified by its municipal officers. (P. L., 1895, Chapter 110.)



**Free Public Library, What Is—Towns May appropriate Money to Procure Use of Library.**

SECTION 4. Any town or city, in which there is a library owned or controlled by a corporation or association, may appropriate a sum not exceeding one dollar for each of its ratable polls in the year next preceding, to procure from such library the free use of its books for all the inhabitants of the town or city, under such restrictions and regulations as shall insure the safety and good usage of the books; and such library shall then be considered a free public library within the meaning of this Act, and said town or city shall be entitled to the benefits of the preceding section, provided that any books and documents purchased with said stipend, and all books and documents donated by the State, shall be and remain the property of said municipality. (P. L., 1901, Chapter 176, Section 4.)

**Free Public Library Entitled to Receive Maine Reports, Public Laws, Etc.**

SECTION 5. In every town and city where a free public library exists, the State librarian shall transmit to such library all laws, Maine reports, and other documents which the town or city is by law entitled to receive from the State, and the same shall be constantly kept in such library for the use and benefit of all the citizens; and the municipal officers of said town or city, shall transfer to said library all the laws, Maine reports and other documents, heretofore received from the State, and now in custody of any of the officers of said town or city; and the officers of said library, on or before the first day of April of each year, shall send to the State librarian a report containing a list of all books and documents purchased with the State stipend for the preceding year, and of all books and documents received from the State in said library. The aid from the State, hereby provided, shall be withheld from any town or city until the report herein required to be made on or before the first day of April of each year, shall have been received by the State librarian. And the same shall also be withheld unless said report shall show that the laws, Maine reports and other documents furnished to said town or city by the State are kept in said library as required by this Act. (P. L., 1895, Chapter 53.)

**State Librarian Authorized to Assist Free Public Libraries.**

SECTION 6. The State librarian is hereby authorized and directed to donate from the Maine State library to any town having no free

public library owned or controlled by the town, books purchased for that purpose, not exceeding fifty per cent. in value the books and documents purchased by said town for the purpose of founding a free public library therein; said donation in no case to exceed one hundred dollars. (P. L., 1901, Chapter 176.)

#### **State Librarian Authorized to Assist in Establishing Free Public Libraries.**

SECTION 7. No town shall be entitled to the benefits of this provision until its legal voters, at a regularly called town meeting, have raised and appropriated not less than one hundred dollars for the purchase of books, and have provided for the care, custody and distribution of its own books, and of those to be donated by the State. (P. L., 1893, Chapter 242, Section 6.)

#### **No Town Entitled to Aid unless One Thousand Dollars Shall Have Been Raised.**

SECTION 8. The librarian or trustees of any free public library may ask the governor and council for advice in regard to the selection of books, and may receive instruction at the State library in cataloguing, and any other matters pertaining to the maintenance or administration of the library. (P. L., 1893, Chapter 242, Section 7.)

#### **Towns May Raise Money to Secure Use of Library in Adjoining Town.**

SECTION 9. Any town is hereby authorized to raise and appropriate annually a sum of money, not exceeding the legal limit heretofore established, for the purpose of securing to its inhabitants the free use of a library located in an adjoining town, and shall be entitled to receive from the State treasurer a sum equal to ten per cent. of the amount so raised, appropriated and expended yearly. (P. L., 1901, Chapter 176, Section 2.)

#### **Adjacent Towns May Unite in Establishing Free Library.**

SECTION 10. Two or more adjacent towns may unite in establishing and maintaining a free public library, with branches thereof in each town, for the free use of all the inhabitants of said towns, and may each raise and appropriate for that purpose annually a sum not exceeding the legal limit heretofore established for maintaining free libraries,

and such towns shall be subject to all the duties and entitled to all the benefits established by the laws now in force concerning free libraries. (Ib., Section 3.)

### **Traveling Libraries — Books May Be Taken from State Library.**

SECTION 11. Under such rules and regulations as the governor and council may prescribe, the State librarian is hereby authorized to lend books and documents from the State library to any responsible citizen of the State, on written application therefor and on payment of all express and carriage charges; but books and documents in the library for reference and library use only, shall not be so loaned. (P. L., 1899, Chapter 22, Section 1.)

### **Books May Be Loaned to Free Library Association under Certain Conditions.**

SECTION 12. On the application of the officers of any free library within the State, or of any association composed of five or more persons residing in a town in the State destitute of a free library, and upon the payment in advance by said free library or association to the State librarian of five cents per volume to cover express and other charges, the State librarian may, from books selected and kept for the purpose, loan to such library or association for a period not longer in duration than six months, not exceeding fifty volumes at any one time. Books so loaned are, under such rules as the library commissioners of the State may prescribe, to be in turn loaned free of charge to the patrons of such free library or to the citizens of the town where such association is located. (P. L., 1901, Chapter 180.)

### **Liability of Persons Taking Books from State Library.**

SECTION 13. Any person or persons who, on his own request or written application therefor, receives the loan of any books or documents from the Maine State library, shall be held liable for the full value thereof to the State librarian, and if he shall neglect or fail to return the same to the library within the prescribed time or shall return the same in an injured or mutilated condition, after due demand and notice, said State librarian may maintain an action at law against such person for the full value of such books or documents. (P. L., 1899, Chapter 22, Section 3.)

**Library Commissioners — How Appointed — Duties.**

SECTION 14. The governor, with the advice and consent of the council, shall appoint four persons as library commissioners in manner following: one person for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years and thereafter one person yearly for the term of four years. Said commissioners shall serve without pay and it shall be their duty to encourage the establishment of free public libraries, to select the books to be purchased for traveling libraries and to advise the State librarian in reference thereto. (Ib., Section 4.)

**State Librarian Shall Be Member and Secretary of Commission.**

SECTION 15. The State librarian shall be, ex officio, a member of the library commission and secretary thereof. It shall be his duty to purchase the books selected by the library commissioners for traveling libraries, cause the same to be properly catalogued and placed in proper cases for transportation and use, keep accurate accounts of all matters relating to the expenditures of money, the transportation of libraries and such other statistics as the commissioners may require. Said secretary shall receive, as and in full compensation for his services and to cover the cost of clerical labor and the necessary expenses of his office, such sum, not exceeding three hundred dollars per annum, as the governor and council may determine. (P. L., 1901, Chapter 180.)

**Expenditures to Be Made with Sanction of the Governor and Council.**

SECTION 16. All expenditures of money shall be made with the sanction of the governor and council, and the commissioners shall make to them a yearly report. (P. L., 1899, Chapter 22, Section 6.)

**Cities May Take Land for a Public Library.**

SECTION 17. Any town or city, containing more than one thousand inhabitants, upon petition in writing signed by at least thirty of its tax paying citizens, directed to the municipal officers, describing the land to be taken as hereinafter provided, and the names of the owners thereof so far as they are known, at a meeting of such town, or of the mayor, aldermen and council of such city may direct such municipal officers to take suitable lands for public parks, squares or a public

library building; and thereupon such officers may take such land for such purpose, but not without consent of the owner; if at the time of filing such petition, with such officers, or in the office of the clerk of such town or city, such land is occupied by a dwelling house wherein the owner of his family reside. (P. L., 1901, Chapter 192.)

### **Penalty for Defacing Books and Pictures.**

SECTION 18. Whosoever wantonly mars, defaces or injures a book, picture, statue or painting belonging to any public library, or library of any association open to the public, shall be fined not exceeding ten dollars. (R. S., Chapter 127, Section 18.)

## **PORTLAND INSTITUTE AND PUBLIC LIBRARY.**

### **Corporators — Purposes.**

SECTION 19. Ether Shepley, William P. Fessenden, Israel Washburn, Jr., John Neal, John C. Stockbridge, John Rand, William Willis, John B. Brown, William H. Fenn, Lorenzo DeM. Sweat, Henry P. Deane, Samuel E. Spring and Edwin C. Bowles, their associates and successors, are hereby incorporated by the name of the Portland Institute and Public Library, for the purpose of establishing and maintaining a library and an institute of natural history, science and art, in the City of Portland, with all the powers and privileges, and subject to all the duties and liabilities of similar corporations in this State. (P. L., 1867, Chapter 174, Section 1.)

### **Capital.**

SECTION 20. Said corporation may take and hold real and personal estate and donations, grants, devises or bequests, to the amount of five hundred thousand dollars. (Ib., Section 2.)

### **City May Aid in Maintenance of Institution — Inhabitants to Have Access to Library.**

SECTION 21. The City of Portland is hereby authorized to appropriate and pay, annually, toward the expenses of establishing and maintaining said institution, a sum not exceeding one dollar for each of its ratable polls, in the year next preceding that in which said appropriation is made; and may also furnish rooms for its accommodation.

And when, and so long as said city shall make such annual appropriations, said corporation shall allow, under proper regulations, the inhabitants of said city to have free access to its library, for the purpose of using and enjoying the same on the premises. The property of said corporation shall be exempt from taxation. (Ib., Section 3.)

### **Organization.**

SECTION 22. Any three persons named in this Act are authorized to call the first meeting of this corporation by giving public notice thereof, in two of the daily papers printed in Portland, one week before the time appointed for the meeting. (Ib., Section 4.)

### **PORTLAND PUBLIC LIBRARY.**

### **Name Changed — Powers Shall Be Exercised by Board of Trustees.**

SECTION 23. All the powers, immunities and franchises and affairs of the Portland Institute and Public Library, which shall henceforth be called the Portland Public Library, shall perpetually hereafter be exercised, managed and governed by a permanent board to be styled the trustees of the Portland Public Library; the corporate property shall be used and improved for a free public library for the inhabitants of the City of Portland, and shall be forever exempt from liability to be taken by the city from the management, direction and control of said board of trustees.

### **Number and Election of — Vacancies How Filled.**

SECTION 24. Said board of trustees shall consist of such number not exceeding twenty, as the life members of the corporation at a meeting specially called for that purpose, and to act upon the acceptance of this Act, may determine, and shall in the first instance be elected at such meeting. All vacancies arising from any cause shall be filled by the remaining members of the board.

### **Officers — Tenure.**

SECTION 25. The board of trustees shall elect from their number a president, and may appoint a secretary, treasurer, librarian and other proper and necessary officers and assistants, who need not be members of the board. The president and other officers and assistants shall hold office and place during the pleasure of the board of trustees.

**By-Laws — Quorum.**

SECTION 26. The board of trustees may adopt By-laws for the regulation of their business; and for the use, protection and preservation of the property of the corporation, and of all collections of books, papers, manuscripts, curiosities, antiquities or works of art under its charge; and for the increase and extension of the library by purchase or exchange; and may by By-law determine what number shall constitute a quorum of the board for the transaction of business; and may establish a system of fines and penalties for the abuse, injury or loss of their property, which system may, from time to time, be modified and amended as shall be judged expedient. (Special Laws of 1889, Chapter 287.)

## **CHAPTER 60.**

# **LIGHTS, LAMPS AND LAMP POSTS.**

### **Statutes.**

#### **City Council Authorized to Contract for Lighting Streets and Public Buildings.**

**SECTION 1.** The city council of the City of Portland are hereby authorized to contract with the Portland Gas Light Company for lighting the streets and public buildings of said city, and the moneys necessary to be expended therefor shall be assessed and collected in the same manner as taxes for other purposes. (Special Laws of 1849, Chapter 288, Section 5.)

(NOTE. "The power to light the streets and public places of a city is one of its implied and inherent powers, as being necessary to properly protect the lives and property of its inhabitants, and as a check on immorality." *Crawfordsville vs. Braden*, Ind. 28, N. E. Rep. 849.)

#### **City May Locate Lamp Posts.**

**SECTION 2.** Cities may make ordinances, not inconsistent with law, and enforce them by suitable penalties, respecting the location and protection of lamp posts and all other things placed within the limits of their roads, ways and streets, by municipal authority and for legitimate municipal purposes; and no such objects placed as aforesaid, if located in accordance with such ordinances, shall be deemed defects in such road, way or street. (R. S., Chapter 3, Section 59.)

#### **Injuries to Monuments, Guide Boards, Lamps, Etc.**

**SECTION 3.** Whoever wilfully and wantonly or maliciously removes, defaces, or injures any lamp, or lamp post, or extinguishes any lamp on any bridge, street, way, or passage, shall be punished by imprisonment for less than one year, and by fine not exceeding one hundred dollars. (R. S., Chapter 127, Section 16.)



## ORDINANCES.

### **Committee on Street Lights—Duties.**

SECTION 1. There shall be appointed as soon as practicable after the passage and approval of this ordinance and thereafter in the month of December annually, a joint committee of the city council, to be called the committee on street lights, to consist of two members of the board of mayor and aldermen and three members of the common council, the minority party to be given representation on said committee; and it shall be the duty of said committee to determine what lights and lamps shall be set up on the streets and lanes and in the public buildings and other places within the city, and where convenience and necessity require that they should be located, and to report to the city council, and said committee shall make all necessary contracts for the repair and preservation of said lights and lamps.

### **Penalty for Extinguishing Lights.**

SECTION 2. No person, without authority of the municipal officers, shall light or extinguish any street lamp, or street light, under a penalty of not less than five dollars nor more than ten dollars for each offence. (See also R. S., Chapter 127, Section 16.)

### **Locations of Lamp Posts.**

SECTION 3. All trees, lamp posts, poles, posts and hydrants, now placed and being within the limits of the streets of the city, are hereby declared to be and shall be taken to be legally established and located; subject, however, to relocation or removal by order of the city council. Lamp posts, and posts for protecting them, may be located within the limits of any street of the city by the joint committee of the city council on street lights, by direction of the city council. Any lamp post, or post for protecting the same, shall be taken to be legally established within the limits of any street in the city when it has been located therein by order of the city council; and any tree, pole, post or hydrant, or any post for the protection of the same, shall be taken to be legally established within the limits of any street of the city when it has been located therein by order or with the approval of the mayor or joint standing committee on streets, sidewalks and bridges; subject, however, to relocation and removal by order of the city council. When an order is given under the provisions of this ordinance it shall be recorded by

the city clerk in a book provided for that purpose, and kept in his office.

**Obstructions Not to Be Placed Near a Street Lamp.**

SECTION 4. No person or corporation shall place or cause to be placed any pole, post or structure of any kind within six feet of a public street lamp.

## **CHAPTER 61.**

# **LOITERING ON STREETS.**

### **ORDINANCES.**

#### **Persons Forbidden to Stand or Loiter on Streets, Etc.**

SECTION 1. No person shall stand or loiter on any sidewalk or crosswalk, or in any street, court, square, lane, alley, park or public way, or in the entrance to any public building or about or within such building in such manner as to obstruct free passage on or in such sidewalk, street, court, lane, alley, park or public way, or into or out of such building or about or within the same, under a penalty of a fine not exceeding twenty dollars.

#### **Penalty.**

SECTION 2. Any person who stands or loiters on any sidewalk or crosswalk, or in any street, court, square, lane, alley, park, or public way, or in the entrance to any public building, or about or within such building, after having been directed by the city marshal or either deputy marshal, or any policeman, patrolman, watchman or constable to pass on, shall be punished by a fine not exceeding twenty dollars.

#### **Loitering on Streets or about Private Dwelling Prohibited — Penalty.**

SECTION 3. No person shall loiter or lurk in any of the streets or public places in Portland, or adjacent to either, for malicious or unlawful purposes, and no person shall loiter unnecessarily in or about any private dwelling in Portland to the discomfort or alarm of the inmates of any such dwelling or of any going to or from the same. Whoever violates any of the provisions of this section shall be punished by a fine not exceeding twenty dollars.

## **CHAPTER 62.**

# **LUMBER.**

### **Statutes.**

#### **Towns to Elect Surveyors of Lumber.**

SECTION 1. Every town, at its annual meeting, shall elect one or more surveyors of boards, plank, timber and joist; one or more surveyors of shingles, clapboards, staves and hoops; and every town containing a port of delivery, whence staves and hoops are usually exported, shall also elect two or more viewers and cullers of staves and hoops; and the municipal officers or a town may, if they deem it necessary, appoint not exceeding seven surveyors of logs, and all said officers shall be sworn. (R. S., Chapter 41, Section 14.) 44 Me. 72.

(See also Revised Statutes, Chapter 3, Section 12.)

#### **Lumber to Be Surveyed before Delivery.**

SECTION 2. All boards, plank, timber, and joist, offered for sale, shall, before delivery, be surveyed by a sworn surveyor thereof, and if he has doubts of the dimensions, he shall measure the same, and mark the contents thereon, making reasonable allowance for rots, knots, and splits, drying and shrinking; pine boards three-fourths of an inch thick when fully seasoned, and in that proportion when partly seasoned, shall be considered merchantable; and no pine boards, except sheathing boards, shall be shipped for exportation beyond the United States, but such as are square edged, and not less than seven-eighths of an inch thick, nor less than ten feet long, under penalty of forfeiture to the town whence shipped. (Ib., Section 15.) 37 Me. 203.

### **SHINGLES AND CLAPBOARDS.**

#### **Dimensions and Quality of Shingles Nos. 1, 2, and 3.**

SECTION 3. All shingles, packed for exportation beyond the State, shall be sixteen inches long, free from shakes and worm holes, and at

least three-eighths of an inch thick at the butt end when green, and if of pine, free from sap. They shall be four inches wide on an average, not less than three inches wide in any part, hold their width three fourths of the way to the thin end, well shaved or sawed, and be denominated "number one;" but shingles intended for sale within this State, if of inferior quality or of less dimensions, may be surveyed and classed accordingly, under the denominations of "number two," and "number three." (Ib., Section 16.

#### **How Shingles Shall Be Split, or Sawed and Packed, Etc.**

SECTION 4. All shingles shall be split or sawed crosswise the grain; each bundle shall contain two hundred and fifty shingles, and if in square bundles, twenty-five courses, and be twenty-two inches and a half at the lay; and when packed to be surveyed as number one, or for exportation, if in any bundle there are five shingles deficient in the proper dimensions, soundness or number, to make two hundred and fifty merchantable shingles; or if any shingles are offered for sale, before they are surveyed and measured by a sworn surveyor of some town in the county where they were made, and the quality branded on the hoop or band of the bundle, unless the parties otherwise agree, they are forfeited to the town where the offence is committed. (Ib., Section 17.) 35 Me. 60, 42 Me. 497, 77 Me. 590.

#### **Dimensions and Quality of Clapboards.**

SECTION 5. All clapboards exposed for sale or packed for exportation, shall be made of good sound timber, free from shakes and worm holes, and if of pine, clear of sap; and they shall be at least five-eighths of an inch thick on the back or thickest part, five inches wide, and four feet, six inches long, and straight and well shaved or sawed. (Ib., Section 18.) 77 Me. 590.

#### **STAVES AND HOOPS.**

#### **Dimensions and Quality of Staves, and How Enumerated.**

SECTION 6. Staves packed for sale or exportation shall be well and proportionably split, and of the following dimensions, viz.:

White oak butt staves, at least five feet in length, five inches wide, and one inch and a quarter thick on the heart or thinnest edge, and every part thereof.

White oak pipe staves shall be at least four feet and eight inches in length, four inches broad in the narrowest part, and not less than three-quarters of an inch thick on the heart or thinnest edge.

White or red oak hogshead staves at least forty-two inches long, and not less than half an inch thick on the least or thinnest edge.

White or red oak barrel staves for a market out of the United States, thirty-two inches long; if for use within the United States, thirty inches long; and in either case half an inch thick on the heart or thinnest edge.

All white or red oak hogshead or barrel staves, at least, one with another, four inches in breadth, and no one less than three inches in breadth in the narrowest part; those of the breadth last mentioned shall be clear of sap; and two staves shall be sold as one cast; fifty casts, one hundred staves; and ten hundred staves one thousand. (Ib., Section 19.) 77 Me. 590.

#### **Dimensions and Quality of Hogshead Hoops—How Packed, Etc.**

SECTION 7. All hogshead hoops, exposed for sale, or packed for exportation, shall be from ten to thirteen feet in length, and of oak, ash or walnut, and of good and sufficient substance, well shaved; if of oak or ash, at least one inch broad, and if of walnut, three-quarters of an inch at the smaller end; the different lengths shall be made up in bundles by themselves; each bundle shall contain twenty-five hoops, four bundles shall make one hundred, and ten hundred, one thousand; and every bundle, packed for sale or exportation, found to be deficient in number or dimensions, is forfeited to the use of the town where exhibited. (Ib., Section 20.) 77 Me. 590, 85 Me. 284.

#### **The Articles Hereinbefore Named, Not to Be Offered for Sale, Etc.**

SECTION 8. No person shall deliver on sale, or ship or attempt to ship for exportation, any boards, plank, timber, joists, shingles, clapboards, staves or hoops, before they have been surveyed, measured, viewed or culled, as the case may be, and branded by the proper officer, and a certificate thereof given by him specifying the number, quality and quantity thereof, under a penalty of two dollars a thousand, by quantity or tale, as such article is usually sold, half to the town where the offence is committed, and half to the prosecutor; and in addition

thereto, the master or owner of any vessel, exporting any of the articles aforesaid beyond the limits of the United States, contrary to law, shall for the first offence forfeit two hundred dollars to the use of the town whence said articles are exported; and if after conviction he commits a second offence in the same vessel, he forfeits the same sum, and the vessel is also forfeited to the town. In any action hereafter brought for the price of boards, planks, timber, joists, shingles, clapboards, staves or hoops, unless sold by the cargo, any failure to survey, measure, view or cull and brand the same, and to give certificates thereof as required by Section 21 of Chapter 41 of the Revised Statutes, shall not defeat recovery in such action, unless it appears that before delivery the purchaser requested such survey, measurement, view or culling, and branding and certificate. (Ib., Section 21.) 32 Me. 320, 77 Me. 590, 83 Me. 324, 85 Me. 284.

**Master or Owner to Produce Surveyor's Certificate before Clearance, Etc.**

SECTION 9. The master or owner of any vessel, having any of the lumber or other articles mentioned in the preceding section on board, for exportation as aforesaid, shall before the vessel is cleared at the custom house, produce to the collector a certificate from the proper officer, that the same have been duly surveyed, measured, viewed, or culled, as the case may require; and such master or owner shall likewise make oath before the collector or a justice of the peace, whose certificate shall be returned to the collector, that the articles so shipped for exportation are the same articles thus surveyed, measured, viewed or culled, that he has no others on board of the like description, and that he will not take any others. (Ib., Section 22.)

**Penalty for Surveyor or Culler to Neglect or Refuse Oath of Office, Etc.**

SECTION 10. If any person, duly elected a surveyor, measurer, viewer or culler of any of said articles under the provisions of this chapter, neglects or refuses to take the oath of his office and to serve therein, he forfeits three dollars to the town, and another person shall be elected to his place, who shall take the oath and serve as aforesaid under the like penalty; and the like proceedings shall be had, until the office is filled; or if any such officer, duly qualified, unnecessarily refuses or neglects to attend to the duties of his office when requested,

he forfeits three dollars ; and if he connives at or willingly allows any breach of the provisions hereof, or practices any other fraud or deceit in his official duties, he forfeits thirty dollars to the use aforesaid. (Ib., Section 23.)

### **Penalties, How Recovered.**

SECTION 11. All the pecuniary penalties aforesaid may be recovered by action of debt, indictment, or complaint, and all other forfeitures, by a libel filed by the treasurer, or any inhabitant of the town interested. (Ib., Section 24.)

### **Duty of Surveyors of Logs.**

SECTION 12. Surveyors of logs may inspect, survey and measure all mill logs floated or brought to market, or offered for sale in their towns, and divide them into several classes, corresponding to the different quality of boards and other sawed lumber, which may be manufactured from them ; and they shall give certificates under their hands, of the quantity and quality thereof to the person at whose request they are surveyed. (Ib., Section 25.) 53 Me. 491.



# LUNATICS.

(See "Insane Persons.")

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## CHAPTER 63.

### MANUFACTURING ESTABLISHMENTS.

Statutes.

#### **Municipal Officers May Assign Places Where Certain Manufacturing Establishments May Carry on Business.**

SECTION 1. The municipal officers of a town, when they judge it necessary, may assign places therein for the exercise of any trades, employments, or manufactures (mentioned in Section 5 of Chapter 17 of the Revised Statutes), and may forbid their exercise in other places, under penalty of being deemed public or common nuisances, and the liability to be dealt with as such. All such assignments shall be entered in the records of the town, and may be revoked when said officers may judge proper. (R. S., Chapter 17, Section 6.)

## **CHAPTER 64.**

# **MAYOR.**

### **Statutes.**

#### **Duties.**

**SECTION 1.** The mayor of said City of Portland shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws of the State, and ordinances and regulations of the city, to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause violations or neglect of duty on their part to be punished. He shall from time to time communicate to the city council, or either board, such information, and recommend such measures as the interest of the city may require. He shall preside at all meetings of the two boards, but shall have only a casting vote. (City Charter, Section 3.)

#### **Mayor to Have Casting Vote in Choice of Officers.**

**SECTION 2.** In the election of any city officers by ballot in the board of aldermen or in convention of the aldermen and common council, in which the mayor has a right to give a casting vote, if two candidates have each half of the ballots cast, he shall determine and declare which of them is elected. (R. S., Chapter 3, Section 34.) 88 Me. 49.

(NOTE. It is unnecessary for the mayor to cast a ballot. 79 Me. 81.)

#### **Mayor and Aldermen to Prosecute for Violations of the Laws Pertaining to Intoxicating Liquors.**

**SECTION 3.** The mayor and aldermen in every city shall make complaint and prosecute all violations of Chapter 27 of the Revised Statutes relating to the illegal sale of intoxicating liquors and promptly enforce the laws against drinking houses. If a municipal officer, after being furnished with a written notice of a violation of said Chapter 27, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove the

offence, wilfully neglects or refuses to institute proceedings therefor, he shall be fined not less than twenty nor more than fifty dollars, to be recovered by indictment. (R. S., Chapter 27, Section 57.)

**Mayor and Aldermen to Prosecute for Violation of the Laws Pertaining to Houses of Ill Fame and Gambling Houses.**

SECTION 4. The municipal officers shall promptly enforce the laws against houses of ill fame and gambling rooms, and make complaint against any person or corporation when there is probable cause to believe such person or corporation to be guilty of a violation of the laws relating thereto. (R. S., Chapter 124, Section 9. *Ib.*, Chapter 125, Section 1.)

(For additional duties and powers of the mayor, see City Charter and Revised Statutes.)

**Salary.**

SECTION 5. The salary of the mayor shall be fixed by the city council, payable at stated periods, and he shall receive no other compensation, which salary, however, shall not be increased or diminished during his year of office. (City Charter, Section 3.)

## **CHAPTER 65.**

# **MILK.**

### **Statutes.**

#### **Inspectors of Milk Shall Be Appointed in Towns of Not Less than Three Thousand Inhabitants.**

SECTION 1. The municipal officers of cities and towns containing not less than three thousand inhabitants shall annually appoint and the municipal officers of all other towns shall on application of ten voters therein, annually appoint one or more persons to be inspectors of milk, who shall, before entering upon their duties, be sworn, and give notice of their appointment by publishing the same for two weeks in a newspaper published in their towns, if any, otherwise by posting such notice in two or more public places therein. (R. S., Chapter 38, Section 44.)

#### **Duties.**

SECTION 2. Inspectors shall keep an office and books for the purpose of recording the names and places of business of all persons selling milk within their limits. They may enter any place where milk is kept or stored for sale, and examine all carriages used in the conveyance thereof, and when they have reason to believe any milk found therein to be adulterated they shall take specimens thereof, and cause them to be analyzed, or otherwise satisfactorily tested, and they shall preserve the result as evidence. Said inspectors shall leave with the owner of the milk inspected a sealed specimen of the milk examined by them, which shall be marked in the same manner as the specimen taken at that time by said inspectors, and prosecute for all violations of the two following sections. (Ib., Section 45.)

#### **Vessels to Be Annually Sealed.**

SECTION 3. All measures, cans or other vessels used in the sale of milk shall annually be sealed by the sealer of weights and measures by wine measure, and shall be marked by the sealer with figures indicating the quantity which they hold, and whoever fraudulently sells by any other measure, can or vessel, forfeits twenty dollars for each offence. (Ib., Section 46.)

**Penalty for Selling or Offering Injurious Milk.**

SECTION 4. Whoever, acting for himself or as the employe of another, knowingly or wilfully sells or offers for sale, milk from cows diseased, sick, or fed upon the refuse of breweries or distilleries, or upon any substance deleterious to its quality, or milk to which water or any foreign substance has been added, or sells or offers for sale as pure milk, any milk from which cream has been taken, forfeits twenty dollars for the first and fifty dollars for every subsequent offence, to be recovered for the town where the offence is committed by complaint and indictment. When milk shall, by the gravimetric analysis be found to contain over eighty per cent. of water, it shall be deemed *prima facie* evidence that said milk has been watered, and when milk by the analysis aforesaid shall be found to contain less than twelve per cent. of solids, and less than three per cent. of fat, it shall be deemed, *prima facie*, milk from which cream has been taken, and any milk which, by the analysis aforesaid, shall be found to contain any foreign substance, shall be deemed milk to which a foreign substance has been added. (Ib., Section 47.)

**Bottles or Glasses Used to Measure Milk or Cream Shall Be Tested for Accuracy and Marked — Shall Bear Evidence That Test Has Been Made.**

SECTION 5. All bottles, pipettes or other measuring glasses used by any person, firm or corporation, or their agents or employes, at any creamery, butter factory, cheese factory or condensed milk factory, or elsewhere in this State, in determining by the Babcock test, or by any other test, the value of milk or cream received from different persons or parties at such creameries or factories shall, before such use, be tested for accuracy of measurement, and for accuracy of the per cent. scale marked thereon. Such bottles, pipettes or measuring glasses shall bear in marks or characters ineffaceable the evidence that such test has been made by the authority named in Section 2 of this Act. And no inaccurate bottles, pipettes or other glasses shall bear such marks or characters. (R. S., Chapter 38, Section 1.)

**Duty of Director of State College Experiment Station to Test All Bottles, Etc. — Shall Mark All Bottles, Etc., Found Correct — Compensation.**

SECTION 6. It is hereby made the duty of the director of the State college experiment station, or other competent person designated by

him, to test the accuracy of all bottles, pipettes or other measuring glasses used by persons, firms or corporations in this State buying or pooling milk or cream, or apportioning butter or cheese made from the same by the contents of butter fat contained therein. The director of the experiment station, or the person designated by him, shall mark such bottles, pipettes or other measuring glasses as are found correct, in marks or characters which cannot be erased, and which marks or characters shall stand as proof that they have been so tested. The director of the experiment station shall receive for such service the actual cost incurred, and no more, the same to be paid by the persons or corporations for whom it is done. (Ib., Section 2.)

**Persons Who Manipulate Test Shall Be Certified by Superintendent of Dairy School—Rules for Granting Certificate.**

SECTION 7. Any person, either for himself or in the employ of any other person, firm or corporation, who manipulates the Babcock test or any other test, whether mechanical or chemical, for the purpose of measuring the contents of butter fat in milk or cream, for a basis of apportioning the value of such milk or cream, or the butter or cheese made from the same, shall secure a certificate from the superintendent of the dairy school at the State College of Agriculture and Mechanic Arts that he or she is competent or well qualified to perform such work. The rules and regulations in the application of such certificate and in the granting of the same shall be such as the superintendent of that school may arrange, and the fee for issuing a certificate shall in no case exceed one dollar, the same to be paid by the applicant. (Ib., Section 3.)

**Penalty for Using Sulphuric Acid of Less Than Required Specific Gravity—Penalty for Violating Section 1 of This Act—Penalty for Violating Section 3—Fines, How Disposed of.**

SECTION 8. Whoever uses, or has in his possession, with intent to use, at any creamery, butter factory, cheese factory, or condensed milk factory, any sulphuric acid of less than one and eighty-two hundredths of specific gravity in the process known as the Babcock test, or any other test for determining the butter fat contents of milk or cream, shall, on conviction, pay a fine not exceeding twenty-five dollars for the first offence, and for a second offence a sum not exceeding fifty dollars.

Any person, firm or corporation violating the provisions of Section 1 of this Act, shall, on conviction, pay a fine not exceeding fifty dollars for the first offence, and for a second offence a sum not exceeding one hundred dollars; and any person violating Section 3 of this Act, shall, on conviction, pay a fine not exceeding ten dollars. And it shall be the duty of every inspector of milk, sheriff, deputy sheriff and constable, to institute complaint against any person or persons violating the within-named provisions of this Act, and on conviction one-half of the fines shall go to complainant and the balance to the State. (Ib., Section 4.)

### **Cities May Require Persons Selling Milk to Be Licensed.**

SECTION 9. Cities may establish ordinances requiring all persons selling milk therein to be licensed, and may prescribe in such ordinances the terms and conditions upon which such licenses may be granted, when and how such licenses may be revoked, and may prescribe penalties for violations of such ordinances. No person, unless so licensed, shall sell milk in any city where a license is required, as herein provided. (P. L., 1901, Chapter 183.)

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## **ORDINANCES.**

### **Inspector, How Appointed — Notice of Appointment.**

SECTION 1. The mayor and aldermen of the City of Portland shall annually appoint an inspector of milk for the City of Portland, who shall be sworn before entering upon the duties of the office. Such inspector shall publish a notice of his appointment for two weeks in a daily newspaper published in the City of Portland.

### **Powers, Duties, Salary.**

SECTION 2. Such inspector shall keep an office and books for the purpose of recording the names and places of business of all persons selling milk within the limits of the City of Portland. Said inspector may enter any place where milk is kept or stored for sale, and examine all carriages used in the conveyance thereof, and when he has reason to believe any milk found therein to be adulterated, he shall take specimens thereof and cause them to be analyzed, or otherwise satisfactorily

tested, and he shall preserve the result of such analysis or test as evidence. Said inspector shall leave with the owner of the milk inspected a sealed specimen of the milk examined by him, which shall be marked in the same manner as the specimen taken at that time by said inspector. The inspector shall receive such compensation only as the city council may determine, and shall perform all other duties required of him by law and by the provisions of this ordinance.

### **Licenses.**

SECTION 3. The board of mayor and aldermen shall, within thirty days after the approval of this ordinance, and thereafter annually on the first Monday of May, or within forty days thereafter, grant licenses to such persons as they may deem suitable to sell milk within the City of Portland; each person so licensed shall pay fifty cents to the inspector of milk for the use of the city, and said inspector shall pay over to the city treasurer monthly all fees so received by him. No license shall be assigned, sold or transferred; such licenses may be revoked at any time by said board for any cause which they deem sufficient. All such licenses shall expire on the first Monday of May next succeeding the date of issue, unless sooner revoked, as herein provided. Any licensee shall be authorized, however, to sell milk in accordance with the provisions of this ordinance, until a new license is granted to him, provided said new license is granted within forty days after the expiration of his former license; but in no event shall such licensee sell milk after the expiration of said forty days unless a new license has been granted him.

Said board of mayor and aldermen may also grant such licenses at any time after the time fixed herein to such persons as said board shall decide were unable or who failed through no fault or neglect of their own, to obtain a license within said time. Licenses so granted shall expire at the time and in the manner hereinbefore provided for licenses regularly issued.

Applications for licenses shall be in duplicate, one copy to be filed with the inspector of milk, who shall record the same, and the other to be presented to the board of mayor and aldermen for action. All applications shall be signed by the person applying for a license, and shall contain, with the exception of the number, all the particulars required to be recorded in the license, as hereinafter provided. In case the application is favorably acted upon and a license granted by the board of mayor and aldermen, the city clerk shall promptly give to the



inspector of milk a list of the persons to whom licenses have been so granted, and the inspector of milk shall keep a record thereof. The inspector of milk shall issue, in the name of the board of mayor and aldermen, a license to all such persons to whom a license has been granted, as aforesaid. Each license shall record the number of the license, the name, the residence and place of business of the licensee, and, in case the licensee is engaged in the business of conveying milk in carriages or other conveyances for the purpose of sale, the license shall also record the number of carriages or other vehicles used, and the name and residence of every driver or other person engaged in carrying or selling milk for said licensee. Each licensee engaged in the business of conveying milk in carriages or other vehicles as aforesaid, shall cause his name and the number of his license, and place of business, if he has any, to be legibly placed on each outer side of all carriages or vehicles used by him in the conveyance and sale of milk, and he shall report to the inspector of milk any change of driver or other person employed by him which may occur during the time of his license, and said inspector shall keep a record of such change. Persons licensed to sell milk in any store, booth, stand or market place shall display their license in some conspicuous place therein.

#### **Penalties.**

SECTION 4. Whoever, unless licensed as aforesaid, shall in the City of Portland sell milk or expose it for sale, or have it in his possession with intent so to sell, and whoever violates any of the provisions of this ordinance, shall for the first offence be punished by fine not exceeding twenty dollars, for a subsequent offence by fine not exceeding fifty dollars; provided, however, that it shall be lawful for the persons named in said licenses as drivers or other persons engaged in carrying or selling said milk for a person duly licensed, and the persons substituted for them, as hereinbefore provided, to sell milk without a license in the course of their employment by said person so licensed. It shall also be lawful for any person employed by a person licensed to sell milk in any store, booth, stand or market place, to sell milk for his said employer, without a license, in such store, booth, stand or market place.

#### **Certain Information to Be Furnished to Inspector — Penalty.**

SECTION 5. It shall be the duty of all persons so licensed to sell milk to furnish the inspector, upon request by him, with all the information they may possess regarding any diseased or adulterated milk

found in their possession or under their control, where it was procured, by whom sold, and any other particulars within their knowledge. The failure or refusal by any person licensed as aforesaid to furnish, when so requested, all such information that he may possess, shall be sufficient cause for revoking his license, and no person whose license has been so revoked shall be licensed again unless by unanimous vote of all the members of all the licensing board.

### **Repeal of Conflicting Ordinances.**

SECTION 6. The ordinance respecting milk and vinegar is hereby repealed so far as it relates to milk, and all other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

## CHAPTER 66.

# MUNICIPAL COURT OF PORTLAND.

(Public Laws, 1856, Chapter 204, as amended.)

### **Court Established.**

SECTION 1. There is hereby established a Municipal Court for the City of Portland, to consist of one judge, who shall be appointed, commissioned and qualified, in the manner provided by the constitution of this State.

### **Jurisdiction Exclusive in Certain Cases — Concurrent with Trial Justices or Municipal and Police Courts — With Superior Court — Shall Not Include Actions in which Title to Real Estate is Involved.**

SECTION 2. Said court shall have exclusive jurisdiction of all civil actions in which the debt or damages demanded do not exceed twenty dollars, and both parties, or the defendant, or a person summoned in good faith as trustee, reside in the City of Portland, and on all cases of forcible entry and detained, where the property demanded is in said city; and of all criminal offences and misdemeanors committed in said city as are cognizable by Municipal or Police Courts or trial justices, or are within the additional jurisdiction and authority conferred upon this court. In actions against two or more defendants or trustees, residing in different counties, where one defendant or trustee resides in this county, concurrent jurisdiction with other trial justices or Municipal or Police Courts, in the county where either of the defendants reside, as is provided in Section 16, Chapter 81, and Section 5 of Chapter 86 of the Revised Statutes of this State, and concurrent with other trial justices or Municipal or Police Courts in the County of Cumberland, over all matters and things, civil and criminal within their jurisdiction is not otherwise conferred by law; and concurrent jurisdiction with the Superior Court in the County of Cumberland, in all personal actions including actions of replevin when a defendant or person summoned in good faith as trustee resides in the County of Cumberland, where the

debt, damages or goods demanded, exclusive of costs, exceed twenty dollars and do not exceed fifty dollars. The jurisdiction shall not include actions in which the title to real estate according to pleadings filed by either party, is in question excepting as is provided in Chapter 94 of the Revised Statutes, Sections 6 and 7, and excepting as is provided in Chapter 83 of the Revised Statutes, Section 4. All the provisions of the statutes of this State relative to the attachment of real estate and personal property and the levying of executions, shall be applicable to actions in this court, and executions on judgments rendered therein. Said court is hereby authorized to administer oaths, render judgments, issue executions, certify copies of its records, punish for contempt and compel attendance as in the Superior Court of this county.

#### **Judge and Recorder Shall Not Act as Counsel.**

SECTION 3. The judge or recorder shall not act as council or attorney in any case, cause, matter or thing which depends upon or relates to any cause cognizable by said court.

#### **Jurisdiction in Cases of Larceny and Other Offences — Exclusive Jurisdiction of Offences against By-laws of City.**

SECTION 4. The said court may take cognizance of simple larcenies, where the property alleged to be stolen shall not exceed in value fifty dollars, and of offences described in Sections 6, 7 and 9 of Chapter 120 of the Revised Statutes, and in Sections 1 and 4 of Chapter 126 of the Revised Statutes, where the value of the property does not exceed fifty dollars; of offences described in Section 4 of Chapter 132 of the Revised Statutes, where they are not of a high and aggravated nature, and on conviction, may punish by fine not exceeding twenty dollars, or by imprisonment in the county jail not exceeding six months, and all violations of the tramp law, and of offences described in Section 4 of Chapter 141 of the Revised Statutes, and on conviction may punish by imprisonment in the county jail or city house of correction, not exceeding six months; and have exclusive jurisdiction of all offences against the By-laws of the city; and in prosecution on such By-laws, they need not be recited in the complaint, not in allegations therein be more particular than in prosecutions on a public statute.

#### **Houses of Ill Fame.**

SECTION 5. The same proceedings may be had in the same manner, against persons keeping houses of ill fame, for the purposes of lewdness or prostitution, on complaint, as before a justice of the peace.

**Right of Appeal.**

SECTION 6. Any person may appeal from a sentence, or judgment against him, to the next term, for civil or criminal business, as the case may require, of the court having jurisdiction within said county, by appeal from justices of the peace; and such appeal shall be taken and prosecuted in the same manner as from a sentence or judgment of a justice of the peace.

**Fines to Be Accounted for.**

SECTION 7. All fines, forfeitures, penalties and costs imposed by this court shall be paid to the recorder of said court, and be by him accounted for and paid over, as is now required by law of trial justices and judges of Municipal and Police Courts. Said recorder shall give the bond now required by law of trial justices and judges of Municipal and Police Courts, by Section 2 of Chapter 308, Public Laws of 1885, and shall be subject to all the requirements and penalties therein contained.

**Jurisdiction, though the Penalty Accrue to the City.**

SECTION 8. The court shall have jurisdiction, though the penalty demanded in any action or prosecution accrues to the City of Portland.

**Terms.**

SECTION 9. The Municipal Court shall be held every day at nine o'clock in the forenoon, Sundays and days on which no courts can be held, excepted; all civil processes shall be returnable on Tuesday of each week and at no other time; provided, that no civil process began prior to January 1, in the year of our Lord, 1890, made returnable on a Monday, the present civil day, but otherwise in legal form and legally served, shall be abated, but said action may be entered in said court on the following Tuesday and the same proceedings had as though originally made returnable on that day.

**Recorder, His Appointment, Duties and Fees.**

SECTION 10. There shall be a recorder of the court, who shall always be a justice of the peace, and duly qualified as such, and he shall be appointed by the governor, by and with the advice of the council; he shall be duly sworn as recorder, and shall keep a fair record of the proceedings of the court, and deliver copies, when required, for the same fees which are allowed to justices of the peace.

**Recorder Shall Exercise Powers of Judge in His Absence.**

SECTION 11. When the judge is absent or is interested, it shall be the duty of the recorder, and he shall have authority to exercise all the powers of the judge.

**Justice of the Peace Substituted in Absence of the Judge and Recorder.**

SECTION 12. If the judge and recorder are both necessarily absent, the judge may designate some justice of the peace duly qualified to perform the duties of his office; or if the judge should not so designate a justice of the peace, the recorder may do it.

**Provisions When Office of Judge Is Vacant.**

SECTION 13. When the office of judge shall be vacant, the recorder shall finish the business pending before the court; and during the continuance of such vacancy, the justices of the peace residing in the City of Portland may perform all acts and duties appertaining to the office of justice of the peace.

**Restrictions on Justices of the Peace in Portland.**

SECTION 14. No justice of the peace residing in the City of Portland, except during the vacancy in the office of the judge of said court, as mentioned in the preceding section, shall in any manner take cognizance of, or exercise jurisdiction over any crime or offence, or in any civil action, wherein the judge is not a party interested; nor accept or receive any fee or reward therefor; and any such justice of the peace, by violating this section, shall forfeit twenty dollars, to be recovered on indictment.

**Exception under the Laws of the United States.**

SECTION 15. Nothing in the preceding section shall be construed as prohibiting the justices of the peace, residing in Portland, from exercising at all times, all the power and jurisdiction given them by any laws of the United States.

**In Absence of Judge, Recorder May Act in Certain Cases.**

SECTION 16. When the judge is occasionally absent from the room or office in which the court is held, the recorder shall have the power to hear complaints in all criminal matters, draw complaints and issue warrants for the apprehension of persons charged with any criminal

offence or breach of the peace; to hear accusations in bastardy and issue warrants thereon, and all warrants so issued by the recorder shall have the same authority as if issued by the judge. Said recorder shall make, sign and issue all mittimuses or other processes of commitment from said court, but said mittimuses or processes of commitment shall be equally valid if signed by the judge.

#### **Recorder Shall Exercise Powers of Judge in His Absence.**

SECTION 17. When the judge is absent from the court room, or is interested, it shall be the duty of the recorder, and he shall have authority to exercise all the powers of the judge. (P. L., 1901, Chapter 157, Section 11.)

#### **In Absence of Judge Recorder May Act in Certain Cases.**

SECTION 18. The recorder shall hear complaints in all criminal matters and in accusations in bastardy, draw all complaints and sign all warrants, take bail, and make and sign all processes of commitment, but the same shall be heard and determined as now provided by law; such bail may be taken by the judge, and such complaints, accusations, warrants and processes of commitment drawn and signed by the judge of said court shall be equally valid. (P. L., 1901, Chapter 157, Section 16.)

#### **Records Where Deposited.**

SECTION 19. The records of the Police Court of Portland (now abolished) and of the Municipal Court formerly existing in Portland, shall be deposited with and kept by the judge of the court established by this Act; and he shall grant and certify copies thereof, when required, which shall be evidence of the contents of such records in any legal proceeding. (P. L., 1856, Chapter 204, Section 19.)

#### **Costs and Fees.**

SECTION 20. In all actions in which the amount recovered exceeds twenty dollars, the costs and fees of parties and attorneys shall be the same as in the Superior Court, except that the defendant, if he prevails, shall be allowed two dollars for his pleadings. (Special Laws of 1895, Chapter 134, Section 5.)

**Salary of Recorder — Fixed.**

SECTION 21. The salary of the recorder of the Municipal Court for the City of Portland shall be eighteen hundred dollars, which shall be in full of all services, including clerk hire, and it shall be the duty of said recorder to make and post all copies of libels and monitions in liquor cases. (P. L., 1897, Chapter 360, Section 1.)

**Salaries of Recorder and Judge, How Paid — Fees and Fines, How Disposed of.**

SECTION 22. The salaries of the judge and recorder of the Municipal Court for the City of Portland shall be paid out of the treasury of the County of Cumberland, and all moneys, fines, costs, court fees of every nature, and proceeds from forfeitures received by the recorder of said court, and all fees, fines and moneys accruing from said court paid to the jailer after commitment, shall be accounted for by them respectively, and paid over to the treasurer of said county quarterly, excepting, however, that all fines and proceeds of forfeitures received by the recorder by reason of the violation of any ordinance of the City of Portland, shall be paid over to the treasurer of said City of Portland by him. (Special Laws of 1891, Chapter 150.)

**Blanks and Stationery Shall Be Furnished at Expense of County.**

SECTION 23. It shall be the duty of the county commissioners to furnish and provide, at the expense of the county, all blanks required for the use of said court in the transaction of its civil and criminal business, including proper books for the record of all cases arising in said court. And said commissioner shall also provide, at the expense of said county, necessary office stationery and supplies for the use of the judge and recorder of said court in the performance of their official duties. (Special Laws of 1891, Chapter 150.)

**Salary of Judge Fixed.**

SECTION 24. The salary of the judge of said court shall be fifteen hundred dollars per annum, payable quarterly, in full for all services. (P. L., 1897, Chapter 515, Section 3.)



## CHAPTER 67.

# MUNICIPAL OFFICERS.

### Statutes.

#### **“Municipal Officers” Defined.**

SECTION 1. The term “municipal officers” includes the mayor and aldermen of cities, the selectmen of towns, and the assessors of plantations. (R. S., Chapter 1, Section 6.)

#### **Municipal Officers Required to Make Complaint against Persons Violating Certain Laws.**

SECTION 2. The municipal officers and constables of towns and cities are required promptly to enforce the laws against houses of ill fame and gambling houses, and to make complaint against any person in their respective municipalities, where there is probable cause to believe such person guilty of a violation of the law relating to houses of ill fame and gambling houses. (R. S., Chapter 124, Section 9. Ib., Chapter 125, Section 1.) 15 Me. 237, 23 Me. 44, 40 Me. 561, 75 Me. 591.

#### **Municipal Officers Required to Make Complaint against Persons Violating Liquor Law.**

SECTION 3. The mayor and aldermen, selectmen, assessors and constables, in every city, town and plantation, shall make complaint and prosecute all violations of Chapter 27 of the Revised Statutes relating to the illegal sale of intoxicating liquors, and promptly enforce the laws against drinking houses. If a municipal officer, after being furnished with a written notice of a violation of said chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offence, wilfully neglects or refuses to institute proceedings therefor, he shall be fined not less than twenty nor more than fifty dollars, to be recovered by indictment. (R. S., Chapter 17, Section 57.) 65 Me. 234, 270.

(Other duties of municipal officers will be found under the various chapters.)

## CHAPTER 68.

# NUISANCES.

### Statutes.

#### **Dangerous Buildings May Be Adjudged Nuisances -- Proceedings -- Powers of Aldermen and Selectmen -- Owner to Be Served with Copy of Order -- Return of Service.**

SECTION 1. When the municipal officers of a town, after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, three weeks successively, otherwise in the State paper, and after a hearing of the matter, adjudge the same to be a nuisance or dangerous, they may make and record an order prescribing what disposal shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if resident within the State, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith; if the owner or part owner is unknown, or resides without the State, such notice shall be given by publication in the State paper, or in a paper published in the county three weeks successively. (R. S., Chapter 17, Section 25.)

#### **Nuisance May Be Abated -- Owner to Pay Expense -- Payment Enforced.**

SECTION 2. If no application is made to a justice of the Supreme Judicial Court, as is hereafter provided, the municipal officers of such town shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand; or may be recovered of such person by an action for money paid. (Ib., Section 26.)

#### **Owner May Apply to Supreme Judicial Court--Proceedings.**

SECTION 3. Any owner aggrieved by such order may apply to a justice of the Supreme Judicial Court, in term time or vacation, who shall forthwith, after notice and hearing, affirm, annul, or alter such

order. If the court is not in session, the action shall be entered on the docket of the preceding term. (R. S., Chapter 17, Section 27.) 82 Me. 558.

#### **Costs, How to Be Paid.**

SECTION 4. If the court affirms such order, costs shall be recovered by the town. If it wholly annuls such order, costs shall be recovered by the applicant, and if it alters it in part, the court may render such judgment as to costs as justice requires. (Ib., Section 28.)

#### **Not Applicable unless by Vote.**

SECTION 5. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof. (Ib., Section 29.)

(Adopted by city council, October 3, 1881.)

#### **Advertising on Fences, Rocks, Etc., without Permission — Penalty.**

SECTION 6. Whoever advertises his wares or occupation by painting notices of the same on, or affixing them to fences or other private property, or to rocks or other natural objects, without the consent of the owner, or if in the highway or any other public place without the permission of the mayors of cities, selectmen of towns or assessors of plantations, forfeits ten dollars for each offence, to be recovered on complaint; half to the prosecutor, and half to the town in which the offence is committed. (R. S., Chapter 127, Section 8.)

#### **Certain Nuisances Described.**

SECTION 7. The erection, continuance or use of any building or place for the exercise of a trade, employment, or manufacture, which, by noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or of the public; the causing or suffering of any offal, filth or noisome substance to collect or to remain in any place to the prejudice of others; the obstructing or impeding, without legal authority, the passage of any navigable river, harbor, or collection of water; the corrupting, or rendering unwholesome, or impure, the water of a river, stream or pond; the unlawfully diverting it from its natural course or state to the injury or prejudice of others; and the obstructing or incumbering by fences, buildings or otherwise, highways, private ways,

streets, alleys, commons, common landing places, or burying grounds, are nuisances within the limitations and exceptions hereafter mentioned. (R. S., Chapter 17, Section 5.) 7 Me. 159, 12 Me. 361, 17 Me. 294, 26 Me. 132, 30 Me. 74, 32 Me. 85, 35 Me. 242, 37 Me. 362, 42 Me. 156, 527, 43 Me. 201, 47 Me. 163, 49 Me. 30, 51 Me. 504, 57 Me. 403, 58 Me. 48, 59 Me. 367, 60 Me. 194, 65 Me. 445, 426, 438, 67 Me. 46, 68 Me. 545, 79 Me. 343, 80 Me. 307, 83 Me. 273, 85 Me. 278, 86 Me. 55,

**Places to Be Assigned for Unwholesome Employments.**

SECTION 8. The municipal officers of a town, when they judge it necessary, may assign places therein for the exercise of any trades employments, or manufactures aforesaid, and may forbid their exercise in other places, under penalty of being deemed public or common nuisances and the liability to be dealt with as such. All such assignments shall be entered in the records of the town and may be revoked when said officers judge proper. (Ib., Section 6.) 34 Me. 40, 65 Me. 435.

**Proceedings When Places So Assigned become Offensive.**

SECTION 9. When a place or building so assigned becomes a nuisance, offensive to the neighborhood, or injurious to the public health, any person may complain thereof to the Supreme Judicial Court, and, if after notice to the party complained of, the truth of the complaint is admitted by default, or made to appear to a jury on trial, the court may revoke such assignment, and prohibit the further use of such place or building for such purposes, under a penalty not exceeding one hundred dollars for each month's continuance after such prohibition, to the use of said town; and may order it to be abated, and issue a warrant therefor, or stay it as hereafter provided; but if the jury acquit the defendant, he shall recover costs of the complainant. (Ib., Section 7.) 65 Me. 426.

**When Buildings for the Manufacture of Gunpowder Shall Be Deemed Nuisances.**

SECTION 10. If any person manufactures gunpowder, or mixes or grinds the composition therefor, in any building within eighty rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly. (Ib., Section 8.)

**Burning Bricks in Parts of a Town Prohibited by Vote—Nuisances.**

SECTION 11. A town, at its annual meeting, may prohibit the burning of bricks, or the erecting of brick kilns within such parts thereof as they deem for the safety of the citizens or their property. And if any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brick kiln to be forthwith removed, at the expense of the owner thereof; and the offender forfeits not exceeding two hundred dollars to the town; and if said bricks or brick kiln are not removed before conviction, the court may issue a warrant for the removal thereof, or stay it as hereafter provided. (Ib., Section 9.)

**Stationary Steam Engine Not to Be Used without License.**

SECTION 12. No stationary, gasoline or steam engine shall be erected in a town, unless the municipal officers have granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provisions as to height of chimneys or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license shall be granted on written application, recorded in the town records, and a certified copy of it furnished, without charge, to the applicant. (Ib., Section 17.) 65 Me. 426, 435, 80 Me. 488.

**Notice and Hearing on Application—Appeal May Be Taken to Supreme Judicial Court—Proceedings.**

SECTION 13. When application is made for such license said officers shall assign a time and place for its consideration, and give at least fourteen days' public notice thereof, in such manner as they think proper, at the expense of the applicant. From the decision of the selectmen of towns, in granting or refusing such license, any person aggrieved by such decision may appeal therefrom to the next term of the Supreme Judicial Court held in said county, which court may appoint a committee of three disinterested persons, as is provided in relation to appeals from location of highways. Said committee shall be sworn and give fourteen days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license

the Supreme Judicial Court in equity may enjoin the erection of such building and steam engine. (P. L., 1899, Chapter 239, Section 18.) 80 Me. 488.

**Such Engine Erected without License to Be Deemed a Nuisance.**

SECTION 14. Any such engine erected without a license shall be deemed a common nuisance without other proof than its use. (Ib., Section 19.) 65 Me. 426, 435.

**Power of Town Officers to Remove Such Engine.**

SECTION 15. Said officers have the same authority to abate and remove a steam engine, erected without license, as is given to the health committee or health officer in Chapter 14 of the Revised Statutes. (Ib., Section 20.) 65 Me. 426, 435.

**Steam Boilers to Be Provided with Fusible Safety Plugs — Exceptions.**

SECTION 16. No person or corporation shall manufacture, sell, or cause to be used except as hereinafter provided, any steam boiler in this State unless it is provided with a fusible safety plug, made of lead, for boilers carrying steam pressure above fifty pounds per-square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch, and said safety plug shall be not less than one-half inch in diameter, and shall be placed in the roof of the fire box when a fire box is used, and in all cases shall be placed in the part of the boiler fully exposed to the action of the fire, and as near the surface line of the water as good judgment shall dictate, excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section. (P. L., 1887, Chapter 34, Section 21.)

**Penalty for Violation.**

SECTION 17. If any person without just and proper cause removes from the boiler the safety plug, or substitutes any material more capable of resisting the action of the fire, or if any person or corporation uses or causes to be used, for six consecutive days, or manufactures or sells a steam boiler unprovided with such safety fusible plug, said offender shall be fined not exceeding one thousand dollars. (R. S., Chapter 17, Section 22.)

**Blasting Rocks, Notice to Be Given.**

SECTION 18. Persons engaged in blasting lime rock or other rocks, shall before each explosion give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion; and no such explosion shall be made after sunset. (R. S., Chapter 17, Section 23.) 82 Me. 240, 88 Me. 263.

**Penalty for Violation.**

SECTION 19. Whoever violates the preceding section forfeits to the prosecutor five dollars for each offence, to be recovered in an action of debt, and is liable for all damages caused by any explosion; and if the persons engaged in blasting rocks are unable to pay, or, after judgment and execution avoid payment of the fine, damages and costs, by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same. (R. S., Chapter 17, Section 24.) 82 Me. 240.

**Mills and Dams on Streams, and Fences and Buildings Fronting on Public Ways, Sometimes Not Nuisances.**

SECTION 20. Fences and buildings fronting on public ways, commons, or lands appropriated to public use, shall not be deemed nuisances when erected for the time and in the manner provided in Section 95 of Chapter 18 of the Revised Statutes, and amendments thereto, unless the owner of the same shall be estopped, as therein provided, from justifying his occupation within the limits of said way. (P. L., 1895, Chapter 29, Section 10.)

**Fence Maliciously Kept Shall Be Deemed a Nuisance.**

SECTION 21. Any fence or other structure in the nature of a fence, unnecessarily exceeding eight feet in height, maliciously kept and maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a private nuisance. This Act shall not apply to towns or cities of less than five thousand inhabitants. (P. L., 1893, Chapter 188, Section 5.) 79 Me. 343, 80 Me. 307, 83 Me. 273, 85 Me. 278.

**Steam Whistles, and the Proper Use Thereof under Authority of City.**

SECTION 22. The City of Portland is hereby authorized to regulate or prohibit the use of all or any kind or class of steam whistles within

the city limits by ordinance, and impose penalties for the breach thereof upon persons owning or using such whistles, or upon both, not exceeding one hundred dollars for each offence, to be recovered by complaint or indictment in any court of competent jurisdiction, and all penalties recovered shall be for the use of the city. (Act 1874, Chapter 524.)

(For authority of mayor to issue license to encumber the streets see City Charter, Section 10, page 49, and Notes on the Charter, Section 10, page 71.)

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## ORDINANCES.

### **Forbidding Steam Whistles.**

SECTION 1. The use of all kinds of steam whistles within the city limits is prohibited, except as hereinafter provided.

#### **Penalty.**

SECTION 2. If any person shall, within the city limits, use any steam whistle, the person so using the same, and also the owner of such steam whistle, shall severally forfeit and pay a penalty of fifty dollars every time such whistle shall be used in violation of the provisions of this ordinance.

### **Not to Apply to Locomotives.**

SECTION 3. This ordinance shall not apply to the use of whistles on locomotives when absolutely necessary to call for brakes to be applied to prevent collision or damage, or to the use of whistles on stationary engines, for the purpose of notifying employes when the works are to start up or shut down, or the use of steam fire engine whistles in time of fire.

### **Distribution of Handbills Forbidden — Penalty.**

SECTION 4. No person shall throw or deposit, or cause to be thrown or deposited, in any street, court, square, lane, alley, or public place, or on any doorsteps, or in any doorway or entrance to any building, any paper, handbills, pamphlets or posters. Whoever violates any of the provisions of this section shall be fined not more than twenty dollars for each offence.



**Owners of Buildings to Maintain Guards on Roofs to Prevent Snow Slides.**

SECTION 5. The owners of all buildings having slated or metal roofs, and situated on or near the line of any public street, shall place upon such roofs suitable railings or other guards and protections, in such manner as shall effectually protect persons and property from injury from snow and ice sliding from said roofs, into the streets upon the sidewalks.

**Marshal to Give Notice to Owners.**

SECTION 6. It shall be the duty of the city marshal to give notice to all owners of such buildings, to put on the roofs of the same suitable railings, or other guards and protections, as provided in the preceding section.

**Penalty.**

SECTION 7. Every person neglecting to comply with the provisions of the two preceding sections within thirty days after such notice, shall forfeit and pay a penalty of not less than five nor more than ten dollars for each week's neglect.

## CHAPTER 69.

# OFFICERS.

### Statutes.

#### **Penalty for Neglect of Official Duty.**

SECTION 1. Every town officer who neglects any duty lawfully required of him, forfeits not exceeding twenty dollars for every such neglect, when no other penalty is provided, to be recovered in an action of debt in the name and to the use of the town, by the treasurer thereof. (R. S., Chapter 3, Section 69.) 37 Me. 90.

#### **Mayor to Have Casting Vote in Choice of Officers.— Appointees May Be Removed by Mayor.**

SECTION 2. In the election of any city officers by ballot in the board of aldermen or in convention of the aldermen and common council, in which the mayor has a right to give a casting vote, if two candidates have each half of the ballots cast, he shall determine and declare which of them is elected. Whenever appointments to office are directed or authorized to be made by the mayor and aldermen of cities, they may be made by the mayor with the consent of the aldermen, and such officers may be removed by the mayor. (P. L., 1897, Chapter 255, Section 34.) 78 Me. 276, 79 Me. 78, 88 Me. 50, 89 Me. 448.

#### **Town Officers Not to Vote on Questions of Pecuniary Interest to Them.**

SECTION 3. No member of a city government or selectman of a town shall in either board of such government or in any board of selectmen, vote on any question in which he is pecuniarily interested, directly or indirectly, and in which his vote may be decisive; and no action of such government or board taken by means of such vote, is legal. (R. S., Chapter 3, Section 35.) 73 Me. 58.

#### **Interests in Municipal Contracts Prohibited.**

SECTION 4. No member of a city government shall be interested, directly or indirectly, in any contract entered into by such government while he is a member thereof; and contracts made in violation hereof are void. (R. S., Chapter 3, Section 36.) 68 Me. 149, 325, 88 Me. 39.  
(See also City Charter.)

## **CHAPTER 70.**

# **ORDINANCES AND BY-LAWS.**

### **Statutes.**

#### **Towns and Cities May Make By-laws.**

SECTION 1. Towns, cities, and village corporations may make By-laws or ordinances not inconsistent with law, and enforce them by suitable penalties, for the purposes and with the limitations following: 63 Me. 320, 70 Me. 522, 78 Me. 29, 93 Me. 73.

#### **For Managing Prudential Affairs.**

I. For managing their prudential affairs with penalties not exceeding five dollars for one offence, subject to the approval of the county commissioners, or a judge of the Supreme Judicial Court.

#### **Police Regulations.**

II. For establishing police regulations for the prevention of crime, protection of property, and preservation of good order, and to regulate the use and the manner of the use of bicycles in the streets in the night time.

#### **Infectious Diseases.**

III. Respecting infectious diseases and health.  
(See also Page 387, Section 32.)

#### **Going at Large of Dogs, Etc.**

IV. For regulating the going at large of dogs.

#### **Wood, Bark, Coal.**

V. Respecting the measure and sale of wood, bark, and coal brought to market, and teams coming therewith.

#### **Sidewalks, Etc.**

VI. For setting off portions of their streets for sidewalks, and keeping them clear of snow and other obstructions, and for planting and preserving trees by the side thereof, and for the proper protection

and care of public parks and squares within the same and all monuments, statues, and erections thereon. (37 Me. 331, 78 Me. 29, 93 Me. 78.)

### **Location and Protection of Monuments, Trees, Lamp Posts, Etc.**

VII. Respecting the location and protection of monuments, boundary stones, curbstones, stepping-stones or horse blocks, trees, lamp posts, posts and hydrants, and all other things placed within the limits of their roads, ways and streets, by municipal authority and for legitimate municipal purposes; and no such objects placed as aforesaid, if located in accordance with such By-laws and ordinances, shall be deemed defects in such road, way or street. (R. S., Chapter 3, Section 59.)

### **Wooden Buildings.**

VIII. Respecting the erection of buildings therein, and defining their proportions, dimensions and the material to be used in the construction thereof; and any building erected contrary to a By-law or ordinance adopted under this specification is a nuisance.

### **Omnibuses, Stages and Fares — By-laws to Be Published.**

IX. For the regulation of all vehicles, used therein, by establishing the rates of fare, routes and places of standing, and in any other respect; but By-laws and ordinances for this purpose shall be published one week at least before they take effect, in some newspaper printed therein, or if there is no newspaper printed therein, such By-laws and ordinances shall be posted at least one week before they take effect, in two public and conspicuous places therein, and published once in some newspaper printed in the county in which said town is situated; and penalties for their breach shall not exceed twenty dollars for one offence, to be recovered by complaint to the use of such city, town or corporation. (93 Me. 78, 78 Me. 29, 2 Cushing, 562.)

### **Protection from Falling Ice and Snow.**

X. For protection of persons against injury from the sliding of snow and ice from roofs of buildings; but the authorities shall notify the owners of the buildings of By-laws or ordinances adopted under this specification, and if such owners do not comply with them in thirty days after notice, they shall be liable for all injury sustained

by any person in consequence thereof; and said authorities, at the expense of their cities, towns or corporations, may place the required guards or other obstructions on the roofs of such buildings, and the reasonable charges therefor may be recovered of such owners.

### **Sale of Fresh Meat and Fish.**

XI. Cities may establish localities for, and regulate the sale of fresh meat and fish therein, and fix penalties for breach thereof.

### **Traffic in Junk, Metals, Etc.**

XII. Cities may establish ordinances regulating the purchase and sale of articles usually bought by old junk dealers, and may therein prescribe conditions to be observed by buyers and sellers, to prevent or detect the sale or purchase of stolen goods; and suitable penalties may be prescribed in such ordinances.

### **Cities May Make By-laws Concerning Truants to Be Approved by the Supreme Judicial Court—Penalty.**

SECTION 2. Towns may make such By-laws, not repugnant to law, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty not exceeding twenty dollars, for any breach thereof, but such By-laws must be first approved by a judge of the Supreme Judicial Court. (R. S., Chapter 11, Section 21.)

### **Charter Power to Ordain By-laws.**

SECTION 3. The city council may ordain reasonable By-laws and regulations for municipal purposes, and impose penalties for the breach thereof, not exceeding one hundred dollars, to be recovered for such uses as the municipal authorities may appoint. (City Charter, Section 1.)

### **Approval of Ordinances by the Mayor.**

SECTION 4. Ordinances shall be presented to the mayor for approval. (See City Charter, Section 4, page 57, and Notes on the Charter, Section 4, page 67.)

(For powers to make By-laws respecting fire department, see Section 9, page 336.)

(For powers to make By-laws respecting gunpowder, explosive oils, and other dangerous substances, see Section 1, page 305.)

(NOTE. Ordinances and By-laws to be valid must be reasonable and not oppressive in their character, and if unreasonable or oppressive, are void. *Jones vs. Sanford*, 66 Me. 585. Whether a By-law or ordinance is reasonable or not, is a question of law for the court. (Ib.) They are invalid if repugnant to the statutes. *Burke vs. Bell*, 36 Me. 317. The mayor and aldermen have no power to permit a violation of an ordinance. *Commonwealth vs. Worcester*, 3 Pick. 462.

Ordinances cannot enlarge, diminish, or vary the City Charter nor the statute laws. *Andrews vs. Insurance Co.*, 37 Me. 256; *Thompson vs. Carroll*, 22 How. 422; *Thomas vs. Richmond*, 12 Wall 349.)

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## ORDINANCES.

### **Enacting Style of City Ordinances.**

SECTION 1. All By-laws of the city shall be denominated ordinances, and the enacting style shall be, "Be it ordained by the mayor, aldermen and common council of the City of Portland, in city council assembled, as follows."

### **Ordinances to Be Published.**

SECTION 2. The ordinances of the city council shall be published and promulgated by inserting the same two weeks successively in one or more newspapers published in the City of Portland; but this section is directory, merely, and a failure to comply with the same shall not affect the validity of any order or ordinance.

### **Time of Ordinance Taking Effect.**

SECTION 3. Any ordinance enacted by the city council shall take effect and go into operation in ten days from and after the day on which it shall have been approved by the mayor, unless the provisions of any ordinance shall otherwise prescribe.

### **Construction of Ordinances — Rules Applicable.**

SECTION 4. In the construction of ordinances the same rules shall be observed so far as they may be applicable, as are provided in Chapter 1, page 79, unless such construction would be inconsistent with the manifest intent of the city council, or repugnant to the context of the same ordinance.

**Fines to Enure to the Use of City, Except.**

SECTION 5. All fines and penalties for the violation of any of the ordinances of the city council, or any of the orders of the mayor and aldermen, shall be recoverable by prosecution in the municipal court of Portland, or any court which may be established in place thereof, and when recovered, shall enure to the use of the city, and shall be paid into the city treasury, except in those cases where it may be otherwise provided by the Acts of the legislature, or the ordinances of the city.

**Penalty.**

SECTION 6. When no punishment is provided by ordinance, a person convicted of an offence under any ordinance shall be fined not less than five nor more than twenty dollars for each offence.

**Ordinances, Resolutions and Orders Relating to Finances to Be Referred to Committee on Finance.**

SECTION 7. Every ordinance, resolution and order relating to city finance shall, before final passage, be committed to the joint standing committee on finance for consideration and recommendation, and it shall be the duty of said committee to make report thereon at the same meeting or at the next meeting after said commitment, but not later than at the next stated meeting, unless further time shall be granted by the city council.

## **CHAPTER 71.**

# **PARKS AND SQUARES.**

### **Statutes.**

#### **When Municipal Officers May Take Land for Public Parks.**

SECTION 1. Any town or city, containing more than one thousand inhabitants, upon petition in writing signed by at least thirty of its tax paying citizens, directed to the municipal officers, describing the land to be taken as hereinafter provided, and the names of the owners thereof so far as they are known, at a meeting of such town, or of the mayor, aldermen and council of such city may direct such municipal officers to take suitable lands for public parks, squares or a public library building; and thereupon such officers may take such land for such purpose, but not without consent of the owner; if at the time of filing such petition, with such officers, or in the office of the clerk of such town or city, such land is occupied by a dwelling house wherein the owner or his family reside. (R. S., Chapter 3, Section 55.)

#### **Duty of Municipal Officers.**

SECTION 2. Whenever the municipal officers of such town or city are directed to take land as provided in the preceding section, they shall, within ten days, give written notice of their intention to take such land, describing the same, and the time and place of hearing, by posting the same in two public places in the town where the land lies, and in the vicinity thereof, and by publishing the same in a newspaper printed in such town or city, seven days before the day of such hearing, if any, otherwise in a newspaper printed in the county where the land lies, three weeks successively, the last publication to be seven days before such hearing. The municipal officers shall meet at the time and place specified in the notice, view the land to be taken, hear all parties interested, and if they decide that the land is suitable for the purpose, they shall take the same and estimate the damages to be paid to each owner, so far as known, and make return of their doings in writing,



signed by a majority of them, which return shall describe by metes and bounds the land so taken, and state the purpose for which it is taken, the names of the owners, so far as known, and the amount of damages awarded to each, the return shall be filed and recorded in the clerk's office of such town or city, and a copy thereof, certified by such clerk, shall be recorded in the registry of deeds for said county. (Ib., Section 56.)

### **Appeal.**

SECTION 3. Any person aggrieved by the estimate of damages may appeal therefrom by filing, within thirty days, in the office of the county commissioners for the county where the land lies, a petition in writing, signed by the party aggrieved, his agent or attorney, describing the land, the interest of the petitioner therein, the amount of damages awarded therefor, and claiming an appeal to the county commissioners from said estimate. A certified copy of such petition shall be served upon such municipal officers, by leaving the same in the clerk's office of such town or city, at least fourteen days before the hearing thereon; and subsequent proceedings shall be as provided respecting highways. When such damages are finally determined, they shall be certified to the clerk of such city or town, and paid by the treasurer thereof. (Ib., Section 57.)

### **Cities May Choose Park Commissioners – Duties of.**

SECTION 4. Towns and cities may choose by ballot park commissioners, to hold office one, two and three years, respectively, and after the first year choose annually a commissioner for three years in place of one whose term expires. They shall have the care and superintendence of the public parks and direct the expenditures of all moneys appropriated for the improvement of the same. (P. L., 1885, Chapter 291.)

### **Appointment of Commission of Cemeteries and Public Grounds.**

SECTION 5. The mayor of the City of Portland is hereby authorized and empowered to appoint, subject to the approval of the board of aldermen, a commission of not less than three persons, to be called the commission of cemeteries and public grounds. (Special Laws of 1885, Chapter 509, Section 1.)

**Tenure — Vacancies, How Filled.**

SECTION 6. Said commissioners shall be appointed for one, two and three years respectively, at the first appointment under this Act; and thereafter one shall be appointed each year, to hold for the term of three years; and in case a vacancy shall occur, it may be filled in the same manner for the unexpired term. (Ib., Section 2.)

**Duties.**

SECTION 7. Said commissioners shall have charge and control of all the cemeteries, other than Evergreen cemetery, together with the parks, promenades, squares and other grounds, which are or may hereafter be reserved for ornamental uses, belonging to the city; and under their direction, all appropriations made for cemeteries and grounds, shall be expended. (Ib., Section 3.)

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**ORDINANCES.****Loaded Wagons, Etc., Not to Pass Through Parks or Promenades without Permit.**

SECTION 1. No dray, wagon, cart or other vehicle used for transportation of dirt, gravel, freight, merchandise or other heavy commodities, whether such dray, wagon, cart or other vehicle be loaded at the time or not, shall be allowed to pass over or through the roadways or grass plats, within any of the parks or public grounds belonging to the city, without the written consent of the mayor or chairman of the commission on cemeteries and public grounds, expressly given therefor. But this section shall not be construed to apply to hacks, barges or other carriages used only for the conveyance of passengers for pleasure or hire.

**Trees, Seats, Etc., Not to Be Defaced.**

SECTION 2. No person shall cut, mar, deface or destroy any seat or stand, or other structure erected by or belonging to the City of Portland, in or upon any street, promenade, park or any of the public grounds of the city, nor cut, deface or destroy, or carry away any tree, shrub or plant within such parks or public grounds.

**Dogs Not Allowed in Ponds of Parks.**

SECTION 3. No dog shall be allowed in the waters of any fountain, pond or stream located in, or running through any of the parks or

public grounds belonging to the city; the owner, keeper or person in control of any dog found violating the provisions of this section shall be liable to the penalty hereinafter provided.

**Penalty.**

SECTION 4. Any person violating the provisions of this ordinance shall be subject to a penalty of ten dollars for each violation thereof.

**Conduct of Persons in Parks, Etc.**

SECTION 5. No person shall in any manner cut, injure or deface any tree, shrub, plant, grass or turf, or any fence or other erection in or upon any of the public parks or grounds of the City of Portland. No person shall make use of any loud, threatening, abusive or indecent language, nor throw stones or other missiles, nor exhibit any show or play any game of chance, nor post any bill, notice or other device upon any tree or structure, nor do any obscene or indecent or unlawful act whatever upon or within any of said parks or public grounds.

**Nothing to Be Thrown into Ponds—No Boats Allowed—  
Skating.**

SECTION 6. No person shall send or throw any animal or thing in or upon any of the waters of Deering or Lincoln Parks, or in any manner disturb or annoy any water fowl, singing or any other bird, deer or any other animal appertaining to either of said parks, nor shall any boat or vessel be placed upon said waters except by special permission from the park commissioners, and no skating or sledding will be allowed thereon unless the park commissioners or police officer in charge shall consider the ice to be in a suitable condition for that purpose.

**Penalty.**

SECTION 7. Every person violating any of the provisions of this ordinance shall be fined not exceeding twenty dollars, to be recovered for the use of the city by complaint before the Municipal Court of the City of Portland.

(For establishment of Lincoln Park in 1861 and 1867 see City Records, Vol. 14, pp. 292, 297, 304, 323, 333, 367, 412, 415, 424, 446. Lincoln Park contains about two and one-half acres.)

(For the records in the matter of Deering's Oaks, a park of about fifty acres, see order of city council of September 27, 1879, Vol. 20, p. 82; Vol. 25, p. 494; Vol. 26, p. 208; and records and plans in city engineer's office.)

## **CHAPTER 72.**

# **PAUPERS.**

### **Statutes.**

#### **Election of Overseers of Poor.**

SECTION 1. There shall be elected at the first election of subordinate officers, in Portland, under this Act, in March, twelve persons for overseers of the poor and workhouse, four of whom shall be elected for one year, four for two years, and four for three years; and all subsequent annual elections shall be for the term of three years. (City Charter, Section 8.)

(NOTE. By amendment to City Charter, overseers of the poor are to be elected on the second Monday in December, see page 57. For definition of poor persons, see 10 Cushing, 239. Concerning authority of overseers to contract debts for supplies for paupers, see 8 Allen, 73.)

#### **Settlement, How Acquired.**

SECTION 2. Settlements, subjecting towns to pay for the support of persons on account of their poverty or distress, are acquired as follows: (R. S., Chapter 24, Section 1.)

#### **Married Women.**

I. A married woman has the settlement of her husband, if he has any in the State; if he has not, her own settlement is not affected by her marriage. When, in a suit between towns involving the settlement of a pauper, it appears that a marriage was procured to change it by the agency or collusion of the officers of either town, or of any person having charge of such pauper, under authority of either town, the settlement is not affected by such marriage. And no derivative settlement is acquired or changed by a marriage so procured, but the children of such marriage and their descendants have the settlement which they would have had if no such marriage had taken place. And the same rule applies in all controversies touching the settlement of paupers between the town by whose officers a marriage is thus procured, and

any other town, whether the person whose marriage is thus procured is a pauper at the time of the marriage or becomes so afterwards. 3 Me. 205, 220, 229, 4 Me. 296, 11 Me. 190, 445, 18 Me. 376, 36 Me. 235, 37 Me. 39, 39 Me. 368, 41 Me. 466, 485, 42 Me. 308, 541, 43 Me. 315, 406, 45 Me. 537, 48 Me. 207, 52 Me. 219, 53 Me. 58, 523, 55 Me. 117, 56 Me. 23, 60 Me. 114, 62 Me. 229, 63 Me. 501, 64 Me. 85, 66 Me. 78, 67 Me. 581, 68 Me. 147, 70 Me. 490, 71 Me. 538, 73 Me. 108, 584, 586, 87 Me. 37, 89 Me. 43, 10 Cushing 517, 105 Mass. 293.

### **Legitimate Children.**

II. Legitimate children have the settlement of their father, if he has any in the State; if he has not, they have the settlement of their mother within it; but they do not have the settlement of either, acquired after they are of age and have capacity to acquire one. 2 Me. 197, 3 Me. 390, 4 Me. 50, 295, 7 Me. 90, 272, 10 Me. 412, 11 Me. 456, 18 Me. 378, 19 Me. 446, 24 Me. 282, 32 Me. 62, 35 Me. 412, 36 Me. 392, 41 Me. 551, 48 Me. 566, 55 Me. 56, 471, 58 Me. 355, 60 Me. 117, 66 Me. 83, 70 Me. 353, 490, 72 Me. 511, 73 Me. 110, 74 Me. 46, 85 Me. 134, 86 Me. 307, 89 Me. 43.

### **Illegitimate Children.**

III. Children, legitimate, or illegitimate, do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settlement of their mother, at the time of their birth; but when the parents of such children born after March 24, 1864, intermarry, they are deemed legitimate, and have the settlement of their father. (For citations see II.)

### **Division of Towns.**

IV. Upon division of a town, a person having a settlement therein and being absent at the time, has his settlement in that town, which includes his last dwelling place in the town divided. When part of a town is set off and annexed to another, the settlement of a person absent at the time of such annexation is not affected thereby. When a new town, composed in part of one or more existing towns, is incorporated, persons settled in such existing town or towns, who have begun to acquire a settlement therein, and whose homes were in such new town at the time of its incorporation, have the same rights incipient

and absolute respecting settlement, as they would have had in the town where their homes formerly were. 1 Me. 131, 13 Me. 301, 19 Me. 390, 20 Me. 343, 21 Me. 337, 23 Me. 474, 31 Me. 468, 35 Me. 187, 37 Me. 41, 38 Me. 476, 39 Me. 369, 42 Me. 314, 548, 43 Me. 317, 44 Me. 359, 47 Me. 131, 49 Me. 553, 51 Me. 446, 448, 53 Me. 524, 54 Me. 254, 56 Me. 321, 66 Me. 572, 69 Me. 317, 71 Me. 456.

### **Apprenticeship.**

V. A minor who serves as an apprentice in a town for four years, and within one year thereafter sets up such trade therein, being then of age, has a settlement therein. 10 Me. 358.

### **Residence Five Years.**

VI. A person of age having his home in a town for five successive years without receiving supplies as a pauper, directly or indirectly, has a settlement therein. 10 Me. 98, 13 Me. 327, 15 Me. 481, 17 Me. 122, 18 Me. 94, 417, 21 Me. 361, 22 Me. 411, 24 Me. 114, 34 Me. 314, 39 Me. 334, 47 Me. 100, 183, 48 Me. 335, 566, 49 Me. 106, 50 Me. 478, 51 Me. 541, 52 Me. 219, 53 Me. 129, 445, 55 Me. 56, 95, 58 Me. 210, 59 Me. 558, 61 Me. 560, 62 Me. 232, 64 Me. 84, 415, 68 Me. 304, 581, 69 Me. 69, 71, 507, 70 Me. 443, 72 Me. 256, 73 Me. 109, 111, 231, 74 Me. 155, 234.

### **Residence March 21, 1821.**

VII. A person having his home in a town on March 21, 1821, without having received supplies as a pauper within one year before that date, acquired a settlement therein. 10 Me. 98, 13 Me. 327, 15 Me. 481, 17 Me. 122, 18 Me. 94, 417, 21 Me. 361, 23 Me. 411, 24 Me. 114, 34 Me. 314, 39 Me. 334, 47 Me. 100, 183, 48 Me. 335, 566, 49 Me. 106, 50 Me. 478, 51 Me. 541, 52 Me. 219, 53 Me. 129, 445, 55 Me. 56, 95, 58 Me. 210, 59 Me. 558, 61 Me. 560, 62 Me. 232, 64 Me. 84, 415, 68 Me. 304, 581, 69 Me. 69, 71, 507, 70 Me. 443, 72 Me. 256, 73 Me. 109, 111, 231, 74 Me. 155, 234.

### **Incorporation of Towns.**

VIII. A person having his home in an unincorporated place for five years without receiving supplies as a pauper, and having continued his home there until the time of its incorporation, acquires a settlement therein. Those having homes in such places for less than five years before incorporation, and continuing to have them there after-

wards, until five years are completed, acquire settlements therein. 11 Me. 457, 21 Me. 61, 269, 30 Me. 453, 33 Me. 580, 55 Me. 119, 66 Me. 572.

### **Pauper Supplies, How Constituted — Care and Medical Attendance.**

SECTION 3. To constitute pauper supplies they must be applied for in case of adult persons of sound mind, by such persons themselves, or by some person by them duly authorized, or such supplies must be received by such persons, or by some person authorized by them, with a full knowledge that they are such supplies; and all care, whether medical or otherwise, furnished to said persons, is subject to the same rule. (Ib., Section 2.) 64 Me. 246, 67 Me. 492, 68 Me. 369, 69 Me. 226, 70 Me. 116, 78 Me. 422, 85 Me. 134.

### **Settlements Remain until New Ones Acquired.**

SECTION 4. Settlements acquired under existing laws, remain until new ones are acquired. Former settlements are defeated by the acquisition of new ones. Whenever a person having a pauper settlement in a town, has lived, or shall live, for five years in any unincorporated place or places in the State, he and those who derive their settlement from him lose their settlement in such town, and whenever a person having a pauper settlement in any town in this State shall hereafter live for five consecutive years beyond the limits of this State without receiving pauper supplies from any source within this State, he and those who derive their settlement from him lose their settlement in such town. (Ib., Section 3.) 30 Me. 470, 48 Me. 565, 49 Me. 105, 55 Me. 55, 117, 58 Me. 355, 66 Me. 78, 70 Me. 353, 484, 71 Me. 456, 77 Me. 592, 85 Me. 126, 92 Me. 433, 6 Cush. 61, 13 Gray 586.

### **Towns Relieving Persons, Who Lose Settlement under Provisions of Section 3, Chapter 24, Revised Statutes, to Be Reimbursed by State.**

SECTION 5. Whenever a person having a pauper settlement in a town loses such settlement by virtue of the provisions of Section 3 of Chapter 24 of the Revised Statutes, relief shall be furnished, and towns furnishing such relief shall be reimbursed by the State, as provided in Section 29 of said chapter, in case of paupers having no legal settlement in the State, and not having lived five years in the town furnishing such relief. (P. L., 1885, Chapter 374.)

**Paupers in Unincorporated Places—State Shall Reimburse Towns Furnishing Relief to State Paupers.**

SECTION 6. Whenever persons who have no legal settlement within the State are found in unincorporated places, and needing immediate relief, and are brought into any adjoining town obliged by law to care for and furnish relief to such persons, and relief is so furnished, the State shall reimburse said town for such relief so furnished, in the same manner and under the same restrictions as provided in Section 29, Chapter 24, of the Revised Statutes, as amended, although the overseers of the poor of said town have no permit in writing from the governor and council to remove the same into their town. (P. L., 1887, Chapter 101.)

**Bridge Tender or Tollkeeper.**

SECTION 7. No person acquires a pauper settlement in a town by reason of his residing in said town as tender of a drawbridge, or as tollkeeper of a bridge owned by another town, and living in a toll-house owned by such other town. (R. S., Chapter 24, Section 4.)

**Inmates of the National Home at Togus—Settlement of, Established.**

SECTION 8. Inmates of the National Home for Disabled Volunteer Soldiers at Togus, in the County of Kennebec, and persons subject to the rules and regulations thereof, or receiving rations therefrom, have their settlement in the respective towns in which they have had a legal settlement when their connection with said National Home commenced, so long as such connection continues therewith. (Ib., Section 5.)

**Towns Relieving Former Inmates to Be Reimbursed by State.**

SECTION 9. If a town furnishes relief to any such person, who becomes a pauper after his connection with said National Home has ceased, having no legal settlement in the State, or to his family, the State shall reimburse such town for the relief furnished, to such an amount as the governor and council adjudge to have been necessarily expended therefor. (Ib., Section 6.)

**Soldiers and Sailors Not to Be Considered Paupers—Shall Not Be Supported in Poorhouse.**

SECTION 10. No soldier or sailor who served by enlistment in the army or navy of the United States, in the war of 1861, and who has



received an honorable discharge from said service, and who has or may become dependent upon any town, shall be considered a pauper, or be subject to disfranchisement for that cause; but the time during which said soldier or sailor is so dependent shall not be included in the period of residence necessary to change his settlement; and overseers of the poor shall not have authority to remove to, or support in the poorhouse, any such dependent soldier or sailor or their families; but the town of his settlement shall support them at his own home in the town of his settlement or residence, or in such suitable place other than the poorhouse, as the overseers of the poor of the town of his settlement may deem right and proper. This section shall not be so construed as to deprive overseers of the poor of any right to remove and support such dependent soldier or sailor and his family in the town of his settlement as herein provided. (Ib., Section 8.) 71 Me. 574, 80 Me. 122.

**Towns May Provide for Burial Expenses of Honorably Discharged Soldiers and Sailors of Maine—State Shall Pay Burial Expenses of Destitute Soldiers and Sailors.**

SECTION 11. Whenever any person who served in the army, navy or marine corps of the United States during the Rebellion, and was honorably discharged therefrom shall die, being at the time of his death a resident of this State and being in destitute circumstances, the State shall pay the necessary expenses of his burial; such expenses shall not exceed the sum of thirty-five dollars in any case, and the burial shall be in some cemetery not used exclusively for the burial of the pauper dead. (P. L., 1887, Chapter 33, Section 1.)

**Cities and Towns Shall Be Reimbursed for Such Expenses.**

SECTION 12. The municipal officers of cities and towns in which such deceased had his residence at the time of his death, shall pay the expenses of his burial, and if he die in an unincorporated place, the town charged with the support of paupers in such unincorporated place, shall pay the expenses of his burial, and in either case upon satisfactory proof by such town or city to the governor and council of the fact of such death and payment the governor shall authorize the State treasurer to refund said town or city the amount so paid; said proof shall contain a certificate from the post commander of the post of the Grand Army of the Republic located nearest the town or city which

paid said burial expenses, stating that such person was an honorably discharged soldier or sailor and in destitute circumstances. (Ib., Section 2.)

### **Appropriations Shall Be Made to Carry on This Act.**

SECTION 13. The legislature shall, hereafter, from time to time, appropriate the necessary sum of money for the purpose of carrying out the provisions of this Act. (Ib., Section 3.)

### **Duty of Towns.**

SECTION 14. Towns shall relieve persons having a settlement therein, when on account of poverty, they need relief. They may raise money therefor as for town charges, and may at their annual meeting choose not exceeding twelve legal voters therein to be overseers of the poor. (R. S., Chapter 24, Section 10.) 4 Me. 475, 20 Me. 442, 83 Me. 219, 91 Me. 17.

### **Overseers' Duties.**

SECTION 15. Overseers shall have the care of the persons chargeable to their town, and cause them to be relieved and employed, at the expense of the town, and the town may direct their employment. (Ib., Section 11.) 64 Me. 415, 70 Me. 115.

### **When Overseers of Poor Are to Be Designated by Governor to Take Charge of Local Immigration.**

SECTION 16. Whenever the governor has knowledge that, under the provisions of an Act of Congress approved August 3, 1882, officers are necessary in any town to take charge of the local affairs of immigration and to provide for the support and relief of immigrants falling into distress, he shall designate for such duty the board of overseers of the poor and their successors in such town, or any member or members of such board. (Ib., Section 12.)

### **Poor Not to Be Sold — Towns May Contract.**

SECTION 17. Persons chargeable shall not be set up and bid off at auction, either for support or service; but towns at their annual meetings, under a warrant for the purpose, may contract for the support of their poor for a term not exceeding five years. (Ib., Section 13.)

### **Towns May Unite in the Purchase of a Farm.**

SECTION 18. Towns may unite in the purchase of a farm, or in the erection of buildings to be used for the support of the poor; and in

procuring all necessary furniture and apparatus therefor. For these purposes each town may choose the number of commissioners agreed upon, to constitute a joint commission to cause the agreement of the towns to be carried into effect. (Ib., Section 14.)

### **Joint Board of Overseers — Duties.**

SECTION 19. The overseers of such towns constitute a joint board of overseers of such farm and buildings. They may at a full meeting establish rules for the management thereof, appoint a superintendent, prescribe his powers and duties, and cause all the paupers of such towns to be supported there. They may receive and support there, paupers of other towns. Towns may raise money for the purposes named in this and the preceding sections. (Ib., Section 15.)

### **Kindred Liable.**

SECTION 20. The father, mother, grandfather, grandmother, children and grandchildren, by consanguinity, living within the State, and of sufficient ability, shall support persons chargeable in proportion to their respective ability. (Ib., Section 16.) 7 Me. 171, 23 Me. 427, 45 Me. 370, 51 Me. 415, 53 Me. 61, 64 Me. 202, 66 Me. 539, 85 Me. 282.

### **Court on Complaint May Assess Them.**

SECTION 21. A town or any kindred, who have incurred expense for the relief of a pauper, may complain to the Supreme Judicial Court in the county where any of them reside; and the court may cause such kindred to be summoned, and upon a hearing or default may assess and apportion a reasonable sum upon such as are found to be of sufficient ability for the support of such pauper to the time of such assessment; and may enforce payment thereof by warrant of distress. Such assessment shall not be made to pay any expense for relief afforded more than six months before the complaint was filed. 5 Me. 325, 23 Me. 420, 64 Me. 203, 66 Me. 539, 85 Me. 282.

### **Complaint Filed, May Be Amended — Summons.**

SECTION 22. Such complaint may be filed with the clerk of the court, who shall issue a summons thereon, returnable, and to be served as writs of summons are; and on suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner, and be proceeded against as if originally named. (R. S., Chapter 24, Section 18.) 85 Me. 282.

**Assessment for Future Support — Court May Order with Whom Pauper Is to Live.**

SECTION 23. The court may assess and apportion upon such kindred a sum sufficient for the future support of such pauper, to be paid quarterly until further order; and may direct with whom of such kindred consenting thereto and for what time, he may dwell, having regard to his comfort and their convenience. On application of the town or person to whom payment was ordered, the clerk may issue or renew a warrant of distress returnable to the next term of the court, to collect what may be due for any preceding quarter. (Ib., Section 19.) 64 Me. 203, 85 Me. 282.

**Court May Alter Assessment — Costs.**

SECTION 24. The court may, from time to time, make any further order or complaint of a party interested, and after notice given, alter such assessment or apportionment. On failure to sustain a complaint, the respondents recover costs. (Ib., Section 20.) 64 Me. 203.

**Children May Be Bound — Terms and Time.**

SECTION 25. The minor children of parents chargeable, or of parents unable in the opinion of the overseers to maintain them, and minor children chargeable themselves, may, without their consent, be bound by the overseers, by deed of indenture, as apprentices or as servants to any citizen of the State, to continue until the males are twenty-one, and the females eighteen years of age or are married, unless sooner discharged by the death of their master. Provision shall be made in such deed for the instruction of males to read, write and cypher, and for females to read and write; and for such further instruction and benefit within or at the end of the term, as the overseers think reasonable. (Ib., Section 21.) 10 Me. 356, 18 Me. 415, 32 Me. 299, 64 Me. 244.

**Overseers to Inquire, May Complain of Master — Court May Discharge Child Who May Be Bound Again.**

SECTION 26. The overseers shall inquire into the treatment of such children, and protect and defend them in the enjoyment of their rights in reference to their masters and others. They may complain to the Supreme Judicial Court in the county where their town is, or where the master resides, against such master for abuse, ill-treatment or neglect, of a child bound to him. The court shall cause him to be

notified, and upon a hearing of the parties or on default, may, for sufficient cause proved, discharge the child with costs, or dismiss the complaint, with or without costs at discretion. Any child so discharged, or whose master has died, may be bound anew for the remainder of the time. (Ib., Section 22.)

### **Suits on Bond — Damages for Benefit of Child.**

SECTION 27. The overseers, by a suit on the deed of indenture, may recover damages for breaches of its covenants. The amount so recovered, deducting reasonable charges, shall be placed in the treasury of the town, to be applied by the overseers for the benefit of the child during his term, or be paid to him at its expiration. The court on trial for sufficient cause exhibited may discharge the child. Such suit is not abated by the death of overseers or by the expiration of their term; but shall proceed in their names, or in the names of the survivors. (Ib., Section 23.)

### **Child Becoming of Age May Sue Master for Damages.**

SECTION 28. Such child, within two years after the expiration of his term, may commence an action of trespass, or case, or a suit on the deed, to recover damages for a breach of its covenants, or for injuries, other than such as have been tried in a suit between the overseers and master. He is for this purpose entitled to the custody of the deed of indenture when necessary, or to a copy of it, and he may sue upon it as assignee without an assignment of it. (Ib., Section 24.)

### **Child Who Has Departed May Be Arrested and Returned — Those Harboring or Enticing Liable.**

SECTION 29. When a child so bound departs from service without leave, his master, or a person in his behalf, may complain on oath to a trial justice in the county where he resides, or where the child is found, who shall issue a warrant and cause such child to be brought before him, and when the complaint is supported, he shall order the child to be returned to his master, though he resides in another county, or commit him to a jail or house of correction to remain not exceeding twenty days, unless sooner discharged by his master. A person, who entices such a child to leave his master, or harbors him knowing that he has so departed, is liable to the master for all his damages. (Ib., Section 25.)  
78 Me. 215.

**Child May Be Discharged on Complaint of Master.**

SECTION 30. A master may complain to the court in the county where he resides, or where the overseers making the indenture resided, for gross misbehavior of the child, and the court after notice to the child and to the overseers of the town binding may discharge the child. (Ib., Section 26.)

**Persons of Age May Be Bound for One Year.**

SECTION 31. Overseers may set to work, or by deed bind to service upon reasonable terms, for a time not exceeding one year, persons having settlements in their town or having none in the State, married or unmarried, able-bodied, upwards of twenty-one years of age, having no apparent means of support, and living idly; and all persons liable to be sent to the house of correction. (Ib., Section 27.)

**Persons Bound May Complain to Court.**

SECTION 32. A person so bound may complain to the court, in the county where he or the overseers reside, and the court after notice to the overseers and master may, upon a hearing, dismiss such complaint, or discharge him from the master and overseers, and award costs to either party or against the town at discretion. (Ib., Section 28.)

**Persons in Unincorporated Places Needing Relief Are under Care of Overseers of Oldest Town or Nearest Town — They and Their Children May Be Bound Out.**

SECTION 33. Persons found in places not incorporated and needing relief are under the care of the overseers of the oldest incorporated adjoining town, or the nearest incorporated town where there are none adjoining, who shall furnish relief to such persons, as if they were found in such towns; and such overseers may bind to service the children of such persons as they may those of paupers of their own town, and may bind out persons described in Section 27 of Chapter 24 of the Revised Statutes in manner therein provided, residing in such unincorporated place, as if in their own town, and such persons shall be entitled to a like remedy and relief, when relief is so provided, the towns so furnishing it have the same remedies against the towns of their settlement as if they resided in the town so furnishing relief. And when such paupers have no legal settlement in the State, the State shall reimburse said town for the relief furnished, to such an amount

as the governor and council adjudge to have been necessarily expended therefor. (Ib., Section 29.) 16 Me. 139, 55 Me. 94, 96, 60 Me. 154, 155, 65 Me. 598, 68 Me. 593, 90 Me. 512.

**Towns Relieving Persons Removing from Unincorporated Place, to Be Reimbursed by State.**

SECTION 34. When persons residing in an unincorporated place, and having no pauper settlement in the State, remove from such place to any town, and there need relief, and the same is furnished to them by such town, the State shall reimburse said town for such relief so furnished, in the same manner and under the same restrictions as to the amount reimbursed, as provided in the preceding section. (Ib., Section 30.)

**On Request of Relieving Town, Governor and Council May Permit Removal.**

SECTION 35. Whenever towns that are compelled to care for and furnish relief to State paupers in unincorporated places, for reasons of economy desire to remove the same into their own town, their overseers of the poor may make a written request, stating their reasons to the governor and council, who shall examine the same, and if in their judgment such State paupers would thereby be supported with less expense to the State, may permit in writing such transfer to be made. Whenever State paupers are thus transferred and maintained in a town for such purposes, they do not become paupers of such town by reason of residence therein, while so maintained. (Ib., Section 31.)

**Certain Larger Plantations to Maintain Their Paupers.**

SECTION 36. Plantations having a population of two hundred or more, and a valuation of at least one hundred thousand dollars, shall hereafter support the paupers therein, in the same manner that towns now do, and the expenses therefor shall not be chargeable to the State. (Ib., Section 32.)

**Persons Needing Relief in Certain Plantations, under Care of Assessors — Plantations to Relieve Them, the Same as Towns — State Paupers Not Affected.**

SECTION 37. Persons found in plantations having a population of more than two hundred, to be determined by the returns of the county commissioners, as provided by Section 70 of Chapter 3 of the Revised Statutes, and a State valuation of forty thousand dollars, and needing

relief, are under the care of the assessors of such plantations; and the duties and powers of such assessors relative to such persons, are the same in every respect as overseers of the poor in towns have in like cases; and such plantations shall assess and raise all moneys necessary to defray the expense incurred in the care of such persons; and plantations so furnishing relief, have the same remedies against the towns of their settlement, that towns have in like cases. But this section does not extend to, or affect the laws concerning so-called State paupers or paupers' settlements. (Ib., Section 33.) 90 Me. 512.

### **Individuals May Relieve the Sick in Such Places and Bury the Dead.**

SECTION 38. A person residing in a place not incorporated may provide relief and medical aid for any other sick, wounded or injured resident, and in case of his death may cause him to be buried, and may recover the amount necessarily expended of the town where such person had a settlement, if within sixty days thereafter he has delivered into a post office, postage paid, a written notice signed by him informing the overseers of such town of the name of the person relieved, the nature of his sickness or injury, if known, and the amount expended. Towns paying such expenses or costs may recover the amount, with interest, of the person relieved, or of any one liable for his support. (Ib., Section 34.) 65 Me. 598.

### **Overseers to Relieve Persons Having Settlements in Other Towns.**

SECTION 39. Overseers shall relieve persons destitute found in their towns and having no settlement therein, and in case of death decently bury them, or dispose of their bodies according to Section 3 of Chapter 13 of the Revised Statutes; the expenses whereof and of their removal incurred within three months before notice given to the town chargeable, may be recovered of the town liable, by the town incurring them, in an action commenced within two years after the cause of action accrued, and not otherwise; and may be recovered of their kindred in the manner before provided in this chapter. (Ib., Section 35.) 3 Me. 454, 8 Me. 71, 15 Me. 169, 365, 16 Me. 385, 17 Me. 335, 20 Me. 442, 26 Me. 463, 27 Me. 493, 28 Me. 289, 296, 29 Me. 316, 33 Me. 453, 38 Me. 476, 40 Me. 288, 41 Me. 484, 42 Me. 568, 43 Me. 318, 46 Me.



560, 48 Me. 356, 420, 49 Me. 385, 554, 50 Me. 518, 51 Me. 603, 53 Me. 42, 79, 445, 55 Me. 119, 62 Me. 247, 64 Me. 415, 67 Me. 533, 71 Me. 576.

**SECTION 40.** A recovery in such an action against a town estops it from disputing the settlement of the pauper with the town recovering in any future action brought for the support of the same pauper. (Ib., Section 36.) 33 Me. 179, 181, 354, 36 Me. 399, 53 Me. 130.

### **Notice to Be Given of Relief to Town Liable.**

**SECTION 41.** Overseers shall send a written notice signed by one or more of them, stating the facts respecting a person chargeable in their town, to the overseers of the town where his settlement is alleged to be, requesting them to remove him, which they may do by a written order directed to a person named therein, who is authorized to execute it. (Ib., Section 37.) 1 Me. 229, 331, 3 Me. 198, 4 Me. 478, 15 Me. 172, 21 Me. 303, 445, 26 Me. 66, 31 Me. 126, 41 Me. 600, 45 Me. 408, 46 Me. 460, 560, 48 Me. 356, 416, 420, 53 Me. 38, 42, 56 Me. 12, 59 Me. 295, 62 Me. 233, 63 Me. 580, 583, 72 Me. 204, 76 Me. 128.

### **Answer to Be Returned within Two Months.**

**SECTION 42.** Overseers receiving such notice shall within two months, if the pauper is not removed, return a written answer, signed by one or more of them, stating their objections to his removal; and if they fail to do so, the overseers requesting his removal may cause him to be removed to that town in the manner provided in the preceding section; and the overseers of the town to which he is sent shall receive him and provide for his support; and their town is estopped to deny his settlement therein, in an action brought to recover for the expenses incurred for his previous support and for his removal. (Ib., Section 38.) 3 Me. 454, 4 Me. 302, 5 Me. 34, 30 Me. 213, 48 Me. 422, 53 Me. 43, 63 Me. 582, 72 Me. 204.

### **Notice by Mail Sufficient.**

**SECTION 43.** When a written notice or answer provided for in this chapter is sent by mail, postage paid, and it arrives at the post office where the overseers to whom it is directed reside, it is sufficient. (Ib., Section 39.) 21 Me. 303, 445, 48 Me. 422, 46 Me. 558.

**Overseer's Complaint if Pauper Refuses to Be Removed to Town of Settlement—Pauper to Be Brought before Magistrate to Answer Complaint—Proceedings—Person Executing Order of Magistrate Has Same Power as Sheriff in Executing Criminal Warrants—Fees and Costs.**

SECTION 44. When the removal of a pauper to the town of his alleged settlement is sought, under Section 37 of Chapter 24 of the Revised Statutes, and the person to whom the order of the overseers is directed, requests him to go with him in obedience thereto, and he refuses to go, or resists the service of such order, the person to whom it is directed may make complaint in writing, by him signed, of the facts aforesaid, to any judge of a Police or Municipal Court or trial justice within the county where said pauper is then domiciled. Said magistrate shall thereupon, by proper order or process, cause said pauper to be brought forthwith before him by any officer to whom the same is directed, to answer said complaint and show cause why he should not be removed.

The complaint may be amended at any time before judgment thereon, according to the facts. The complainant and the pauper shall both be heard, and if upon such hearing the magistrate finds that the town to which it is proposed to remove such pauper is liable for his maintenance and support, he shall issue his order, under his hand and seal, commanding the person to whom it is directed to take said pauper and transport him to the town aforesaid, and deliver him to the custody of the overseers of the poor thereof. The person to whom said last named order is directed shall have all the authority to execute the same according to the precept thereof, that the sheriff or his deputy has in executing warrants in criminal proceedings. In the foregoing proceedings, the fees and costs shall be the same as for like services in criminal cases, and shall be paid by the town seeking to remove such pauper. (Ib., Section 40.) 76 Me. 128.

**Persons Removed, Returning, May Be Sent to House of Correction.**

SECTION 45. A person removed, as provided in this chapter, to the place of his settlement, who voluntarily returns to the town from which he was removed, without the consent of the overseers, may be sent to the house of correction as a vagabond. (Ib., Section 41.)

**Foreign Paupers May Be Removed.**

SECTION 46. On complaint of overseers, that a pauper chargeable to their town has no settlement in the State, to any trial justice, may, by his warrant directed to a person named therein, cause such pauper to be conveyed, at the expense of such town, beyond the limits of the State, to the place where he belongs, but this section does not apply to the families of volunteers enlisted in the State, who may have been mustered into the service of the United States. (Ib., Section 42.)

**Towns Liable to Individuals.**

SECTION 47. Towns shall pay expenses necessarily incurred for the relief of paupers by an inhabitant not liable for their support, after notice and request to the overseers, until provision is made for them. (Ib., Section 43.) 20 Me. 445, 22 Me. 433, 36 Me. 378, 37 Me. 10, 43 Me. 318, 48 Me. 561, 49 Me. 33, 53 Me. 61, 63 Me. 492, 65 Me. 597, 67 Me. 552, 70 Me. 501, 90 Me. 512, 93 Me. 71.

**Overseers to Complain of Persons Intemperate.**

SECTION 48. When a person in their town, notoriously subject to habits of intemperance, is in need of relief, the overseers shall make complaint to a trial justice in the county, who shall issue a warrant and cause such person to be brought before him, and upon a hearing and proof of such habits he shall order him to be committed to the house of correction, to be there supported by the town where he has a settlement, and if there is no such town, at the expense of the county, until discharged by the overseers of the town in which the house of correction is situated, or by two justices of the peace and quorum. (Ib., Section 44.) 11 Me. 212, 51 Me. 460.

**Towns May Recover of Paupers.**

SECTION 49. A town, which has incurred expenses for the support of a pauper, whether he has a settlement in that town or not, may recover it of him, his executors or administrators, in an action of assumpsit. (Ib., Section 45.) 4 Me. 258, 262, 8 Me. 315, 22 Me. 445, 448, 41 Me. 594, 600, 66 Me. 62.

**Overseers Take Possession of Property of Paupers Deceased.**

SECTION 50. Upon the decease of a pauper then chargeable, the overseers may take into their custody all his personal property, and if no administration on his estate is taken within thirty days they may

sell so much thereof as is necessary to repay the expenses incurred. They have the same remedy to recover any property of such pauper, not delivered to them, as his administrator would have. (Ib., Section 46.) 8 Me. 315, 318.

### **May Prosecute and Defend.**

SECTION 51. For all purposes provided for in this chapter, its overseers, or any person appointed by them in writing, may prosecute and defend a town. (Ib., Section 47.)

### **Plantations May Raise Money.**

SECTION 52. Any plantation, at a legal meeting called for the purpose, may raise and expend money for the support of the poor, to be applied by its assessors. (Ib., Section 48.) 7 Me. 125, 133, 61 Me. 449.

### **Penalty for Bringing Paupers into a Town.**

SECTION 53. Whoever brings into and leaves in a town where he has no settlement, any poor, indigent or insane person, having no visible means of support, or hires or procures such person to be so brought, or aids or abets in so doing, knowing such person to be poor, indigent or insane as aforesaid, with intent to charge such town in this State with the support of such person, shall be fined not exceeding three hundred dollars or imprisonment not exceeding one year. And shall be further liable to any town or to the State for such sums of money as are expended by such town or by the State for the support or maintenance of such person, which may be recovered in an action of the case. (Ib., Section 49.) 2 Me. 5, 411, 50 Me. 336, 75 Me. 205.

### **Common Carriers' Liability for Bringing Non-Resident Paupers into the State — Proviso.**

SECTION 54. Any common carrier, who brings into the State a person not having a settlement therein, shall remove him beyond the State, if he falls into distress within a year, provided that such person is delivered on board a boat or at a station of such carrier, by the overseers or municipal officers requesting such removal; and in default thereof, such carrier is liable in assumpsit for the expense of such person's support after such default. (Ib., Section 50.) 8 Me. 113, 48 Me. 468, 83 Me. 422.

## **CHAPTER 73.**

# **PAWNBROKERS.**

### **Statutes.**

#### **License and Removal of Pawnbrokers, Etc.**

SECTION 1. The municipal officers of any town may grant licenses to persons of good moral character, to be pawnbrokers therein for one year, unless sooner removed by said officers for violation of law ; whoever carries on said business without a license, forfeits not exceeding one hundred dollars. (R. S., Chapter 35, Section 1.)

#### **To Keep an Account of All Business Done, Under a Penalty.**

SECTION 2. Every pawnbroker shall keep a book, in which he shall enter the date, duration, amount and rate of interest of every loan made by him ; an accurate account and description of the property pawned, and the name and residence of the pawner, and, at the same time, shall deliver to said pawner a written memorandum signed by him, containing the substance of the above entry, and at all reasonable times shall submit said book to the inspection of any of the officers aforesaid ; and for every violation of this section he forfeits twenty dollars. (Ib., Section 2.)

#### **Rates of Interest Fixed.**

SECTION 3. No pawnbroker shall directly or indirectly receive any rate of interest greater than twenty-five per cent. a year on a loan not exceeding twenty-five dollars, nor more than six per cent. on a larger loan made upon property pawned, under a penalty of one hundred dollars for each offence. (Ib., Section 3.)

#### **Time and Mode of Selling Pawned Property, and Notice Thereof Fixed — Penalty.**

SECTION 4. No pawnbroker shall sell any property pawned, until it has remained in his possession for three months after the expiration of the time for which it was pawned ; all such sales shall be at public auc-

tion by a licensed auctioneer, and after notice of the time and place of sale, the name of the auctioneer, and a description of the property to be sold has been published in a newspaper in the town where the property is pawned, if any, and if not, after such notice has been posted in two public places therein at least two weeks before the sale; all sales of such property otherwise made are void, and the pawnbroker, undertaking to make them, forfeits twenty dollars for every such offence. (Ib., Section 4.)

**Penalty for Not Paying Over Proceeds of Sale, Etc.**

SECTION 5. After deducting from the proceeds of any sale as aforesaid the amount of the loan, the interest then due, and the proportional part of the expenses of sale, such pawnbroker shall pay the balance to the person who would have been entitled to redeem such property if no sale had been made; and if not so paid on demand, the broker forfeits double the amount so retained, half to the pawner and half to the State. (Ib., Section 5.)

## **CHAPTER 74.**

# **PENSIONS.**

### **Statutes.**

#### **Pensioners to Be Paid Quarterly by the City Treasurer.**

SECTION 1. The governor and council shall issue certificates for State pensions in accordance with the provisions of Chapter 144 of the Revised Statutes, and upon the issue of such a certificate, the treasurer of the city where the pensioner resides shall be notified thereof, and shall pay quarterly from the treasury of said city to the pensioner, the amount specified and for the time specified in said certificate, and take vouchers therefor, and the same shall be reimbursed to said treasurer from the treasury of the State. (R. S., Chapter 144, Sections 4, 5.)

#### **Blanks Shall Be Issued to the Mayor at State's Expense.**

SECTION 2. The necessary blanks shall be issued to the mayors of cities, as the governor may direct. (Ib., Section 6.)

#### **Municipal Officers Not Entitled to Fees.**

SECTION 3. No officer of any city shall receive any fees or compensation from the State for services performed under this chapter, or in carrying its provisions into effect. (Ib., Section 7.)

#### **Retirement and Pensioning of Police Officers of Portland.**

SECTION 4. The city council of the City of Portland are hereby authorized to provide by ordinance, for the retirement of police officers who may have been honorably discharged from the police force of the City of Portland by reason of having arrived at the age of sixty-five years, or by reason of permanent injuries or permanent physical incapacity, which is the result of an incident of service upon said police force, upon a pension not exceeding half pay. (P. L., 1897, Chapter 424.)

**City Authorized to Retire and Pension Members of Fire Department.**

SECTION 5. The city council, of the City of Portland, are hereby authorized to provide by ordinance for the retirement, upon a pension not exceeding half pay, of members of the fire department who have served not less than twenty-five years in a position in the fire department requiring them to give to its duties their whole time, and who have been honorably discharged by reason of age, or permanent physical incapacity which is the result of an incident of service. (P. L., 1897, Chapter 468.)

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**CHAPTER 75.****PERMITS.****Ordinance.****Fee for Permits.**

SECTION 1. Whenever a permit shall be granted to any person, under the authority of any order or ordinance, the applicant shall pay to the officer granting the same the sum of twenty-five cents, except in cases otherwise specially provided for.



## **CHAPTER 76.**

# **PETROLEUM, NAPHTHA, GASOLINE, KEROSENE, ETC.**

### **Statutes.**

#### **Inspector of Petroleum to Be Appointed in Towns of Two Thousand Inhabitants or More.**

SECTION 1. In towns containing two thousand inhabitants or more the municipal officers shall, on or before the first day of May annually appoint one or more persons, and fix their compensation, to be inspectors of petroleum, coal oil, and burning fluid, who shall be sworn, and shall, when requested, inspect such oils and burning fluids by applying the fire test with G. Tagliabue's pyrometer, or some other accurate instrument, to ascertain the igniting or explosive point thereof in degrees of Fahrenheit's thermometer, and they shall cause every vessel or cask thereof by them so inspected to be plainly marked by the name of such inspector, the date of inspection, and the igniting or explosive point of the contents thereof. (R. S., Chapter 39, Section 26.)

#### **Casks, How to Be Marked — False Marks, How Punished.**

SECTION 2. When a cask or vessel of such oil or fluid will not bear the fire test of at least one hundred and twenty degrees Fahrenheit, without ignition or explosion, the same shall be marked as aforesaid, and also be marked, "unsafe for illuminating purposes." If any inspector knowingly puts false marks upon such casks or vessels inspected by him, he shall be fined not exceeding five hundred dollars, or be imprisoned six months. (Ib., Section 27.)

#### **Casks Must Be Inspected in This State — Penalty for Neglect.**

SECTION 3. Every person and corporation engaged in manufacturing petroleum, coal oil or burning fluid, shall cause every cask or other vessel thereof to be so inspected and marked by a sworn inspector. Whoever manufactures or sells such oil or burning fluid, not so inspected and marked in this State, or that has been so inspected and

marked as unsafe for illuminating purposes, shall pay a fine not exceeding five hundred dollars, or be imprisoned six months upon indictment. (Ib., Section 28.)

**Duty of Municipal Officers and Police.**

SECTION 4. The municipal officers of towns, and the police of cities, may at all times examine all such oils and fluids kept in their towns, for sale, and cause them to be inspected and tested; and they shall do so in all cases where they are informed or believe that the same are kept for sale in violation of law, and cause the keeper and seller to be prosecuted therefor. (Ib., Section 29.)

**Persons Engaged in Sale of Kerosene, Etc., to File with City Clerk Description of Marks Used on Cans.**

SECTION 5. All persons or corporations engaged in the sale of kerosene, refined petroleum, gasoline, or other burning or illuminating oils or fluids, in cans of a capacity of not less than five gallons, with their names or other marks or devices branded, stamped, engraved, etched, impressed or otherwise produced upon such cans or anything connected therewith or appertaining thereto, may file in the office of the town or city clerk in which their principal place of business is situated, a description of the names and marks aforesaid, used by them, and cause the same to be published once a week for three successive weeks, in any weekly paper published in the county in which said notice may have been filed as aforesaid. (P. L., 1895, Chapter 68, Section 1.)

**Penalty for Using, without Consent of Owner, Cans So Marked.**

SECTION 6. Whoever knowingly and wilfully, without the written consent of the owners, uses, buys, sells, fills or traffics in any such can so marked as aforesaid, or defaces, covers up or obliterates the names, marks or devices thereon, with intent to use, fill, sell, buy, dispose of or traffic therein, or to convert the same to his own use, shall, on complaint, be punished by a fine of not more than twenty dollars. (Ib., Section 2.)

**Municipal Officers to Make Regulations Respecting Explosive Oils, Etc. — Penalty.**

SECTION 7. In every town, the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place petroleum, coal oils, burning fluids, naphtha, ben-

zine and all other explosive and illuminating substances which such officers adjudge dangerous to the lives or safety of citizens; and no person shall keep any such article in any other quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty nor more than one hundred dollars for each offence; all such articles may be seized by any of said officers as forfeited, and within twenty days after such seizure may be libeled according to law. (R. S., Chapter 26, Section 20.) 18 Me. 32, 54 Me. 256, 62 Me. 289.

### **Municipal Officers May Search for Such Articles.**

SECTION 8. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be unlawfully concealed there. (Ib., Section 22.)

### **Regulations Not in Force until Published.**

SECTION 9. Rules and regulations, established in any town according to Section 20 of Chapter 26 of the Revised Statutes, shall not be in force until they have been published for three weeks successively in a newspaper in the county, or by posting attested copies of them in three public places in such town. (Ib., Section 23.)

### **Penalties, How Recovered.**

SECTION 10. Penalties provided in this chapter may be recovered by complaint, indictment, or action of debt, half to the town where the offence was committed, and half to the prosecutor. (Ib., Section 24.)

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## **RULES AND REGULATIONS OF THE MAYOR AND ALDERMEN RELATING TO PETROLEUM.**

SECTION 1. Any person desiring to manufacture, refine, mix, store, or keep for sale any oil or fluid composed wholly or in part of any of the products of petroleum, in a greater quantity than one hundred gallons, in any one place in the City of Portland, shall make application in writing for a license therefor to the board of mayor and aldermen of said city, and shall state in such application the place, building, or part of a building, for which he desires a license, and whether he desires a license for manufacturing, refining and mixing said articles, or any of them, or a license for storing and keeping them, or both. Such application shall be referred to the chief engineer of the fire department, who shall

within one week from the time of such reference examine the place or building described in such application, and report in writing to the board of mayor and aldermen his opinion of the propriety of granting the license applied for.

SECTION 2. No license shall be granted for manufacturing, refining, mixing, storing or keeping said articles, or any of them, upon any alley, sidewalk, street or wharf within the limits of the city, nor in any part of a building, occupied in whole or in part as a dwelling house, nor upon any floor of a building above the first floor.

SECTION 3. No license shall be granted for mixing, storing or keeping crude petroleum, naphtha or gasoline in any part of a building above the cellar, unless said articles are contained in metallic vessels securely closed.

SECTION 4. No license shall be granted for selling or keeping for sale at retail, for illuminating purposes, any kerosene, refined petroleum, or any product of petroleum, which has not been inspected by the officer appointed for that purpose by the mayor and aldermen.

SECTION 5. Except as hereinbefore expressly provided, licenses may be granted for manufacturing, refining, mixing, storing and keeping said articles, or any of them, in cellars, or upon the first floor of buildings, or in other suitable localities, in such quantities over one hundred gallons, and in such a manner as the board of mayor and aldermen may in each case determine, except that no license shall be granted for manufacturing, refining, mixing, storing or keeping said articles, or any of them, upon the first floor, in a greater quantity than one hundred gallons, unless the same is contained in metallic vessels securely closed, or the foundation and walls of said building be of brick, stone, or iron, and the sills or walls of said building be built without apertures for a space of at least one foot above the floor.

SECTION 6. There shall be expressed in said license the name of the person or persons to whom the license is granted and whether he or they are permitted to manufacture, refine and mix said articles or any of them, or to store and keep them, or both, and a description of the place, building, or part of a building licensed, and any limitations upon the quantity of said articles, or any of them, which may be manufactured, refined, mixed, stored or kept therein, or upon the manner of manufacturing, refining, mixing, storing or keeping the same, which the board of mayor and aldermen may in each case see fit to impose;

any person so licensed may manufacture, refine, mix, store or keep said articles, or any of them, according to the terms of his license, either on his own account or on account of any other person. Any person holding such a license shall allow the chief engineer of the fire department, or any of the assistant engineers, or the inspector or inspectors appointed by the mayor and aldermen, to enter the premises described in the license, and take such samples of oil and make such examination of the premises as the said engineers or inspectors deem expedient. Any violation of the terms of said license shall work a revocation of the same, and the board of mayor and aldermen may revoke any license without cause at any time.

SECTION 7. No person shall keep for sale, or shall store in any building within the City of Portland any camphene or building fluid, without a license from the board of mayor and aldermen.

SECTION 8. Every person desiring a license to sell or store camphene or burning fluid in said city shall make written application therefor to the chief engineer of the fire department, stating in said application the place or building in which he desires to sell or store the said articles, and the manner in which he proposes to keep them, and the chief engineer of the fire department shall examine the premises and report to the board of mayor and aldermen his opinion of the safety of granting a license, and after his report the board of mayor and aldermen may act upon said application.

SECTION 9. All licenses granted under the provisions of this ordinance shall continue and be in force from the time of granting them until the first day of April next succeeding, unless otherwise stated.

SECTION 10. Every person, at the time of receiving said license, shall pay to the city treasurer therefor the sum of one dollar.

SECTION 11. The compensation of the inspector, appointed under authority of Section 26 of Chapter 39 of the Revised Statutes to inspect petroleum, coal oil and burning fluids, shall be as follows:

For every inspection of a sample of oil or for a lot of ten barrels, or less, he shall be paid the sum of fifty cents, for every lot of more than ten barrels he shall be paid five cents for each barrel inspected after the barrel has been placed in position and the bung removed.

## **CHAPTER 77.**

# **PILOTS.**

### **Statutes.**

#### **Appointment, Oath and Bond of Pilots.**

SECTION 1. The governor, with the advice and consent of council, may appoint pilots for any port, in which a majority of the ship owners and masters apply in writing therefor and recommend suitable persons, and shall give to each of them branches or warrants for the execution of the duties of his office ; and such pilots shall, before entering upon said duties, be sworn, and give bond to the treasurer of State in the sum of five thousand dollars for the faithful performance thereof. (R. S., Chapter 36, Section 1.)

#### **Board of Trade of Portland to Appoint Pilots for Said City.**

SECTION 2. By the provisions of Chapter 232 of the Private and Special Laws of 1854 entitled "an Act to incorporate the Board of Trade of Portland," power was given to said board to appoint such number of pilots for the harbor of Portland, as said board may deem necessary for the safety and convenience of the commerce of said port ; and also to affix such compensation for the services of said pilots as said board may deem just and reasonable. (Private and Special Laws of 1854, Chapter 232, Section 2.)

#### **Their Duty — Master May Pilot His Own Vessel.**

SECTION 3. Such pilots shall take charge of all vessels, drawing nine feet of water and upwards, bound into, and of all such vessels, except coasting and fishing vessels bound to sea out of any of said ports, and shall pilot them into or out of the port assigned them, first showing to the master thereof their branch and informing him of their fees ; but any master may pilot his own vessel without being subject to pay therefor. (R. S., Chapter 36, Section 2.)

**Governor and Council to Fix Fees, Hear Complaints, and Suspend or Remove.**

SECTION 4. The governor and council may fix the fees of pilotage; specify the same in the branch of each pilot; transmit to each collector of customs in said ports a schedule thereof, to be hung up by him for public inspection; hear and determine all complaints against such pilots for misconduct, and suspend or remove them and appoint others in their place. (Ib., Section 3.)

**Liable for Damage Caused by Their Fault.**

SECTION 5. If any vessel, while under the charge of such pilot, is lost, run aground, or cast away, through his fault, he is liable to pay the owner or insurer a just compensation for any damage thereby sustained. (Ib., Section 4.)

(As to duty of pilots to anchor infected vessels outside the port, see P. L., 1885, Chapter 123.)

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**P L U M B I N G.**

(See Buildings, page 139.)

## **CHAPTER 78.**

# **POLICE.**

### **Statutes.**

#### **Powers of Mayor and Aldermen Over Police — Police, How Constituted.**

SECTION 1. By Section 5 of the charter of the City of Portland, the executive powers of said city generally, and the administration of police and health departments, with all the powers of selectmen, except as modified by the charter, are vested in the mayor and aldermen. All the powers of establishing watch and ward, vested by the laws of the State in the justices of the peace and municipal officers or inhabitants of towns, are vested in the mayor and aldermen, so far as relates to said city; and they are authorized to unite the watch and police departments into one department and establish suitable regulations for the government of the same. The officers of police shall be one chief, to be styled the city marshal, so many deputy marshals as the city council may by ordinance prescribe, and so many watchmen and policemen as the mayor and aldermen may from time to time appoint. (City Charter, 1863, Section 5.) 155 Mass. 216.

#### **Cities May Establish Police Regulations.**

SECTION 2. Cities may establish such police regulations as they may deem necessary for the prevention of crime, protection of property, and preservation of good order, not inconsistent with the laws of the State. (R. S., Chapter 3, Section 59.)

#### **Police Officers of Cities Have Power of Constables in Certain Matters.**

SECTION 3. Police officers, appointed in any city, have the powers of constables in matters criminal, or relating to the By-laws of their city. (R. S., Chapter 80, Section 53.)

#### **Criminals and Fugitives from Justice May Be Arrested without a Warrant.**

SECTION 4. The city marshal of Portland, or other persons legally qualified to execute criminal process within said city, shall have power



without warrant, to arrest and detain any person found in said city, upon information that such person has committed a crime in another State or country, or in any city or town within this State, and is a fugitive from justice or is about to escape, and the person so arrested may be detained by such officers for a reasonable time, until such person can be delivered into proper or legal custody on a warrant or otherwise, according to the nature of the case. (Act, 1853, Chapter 167, Section 2.)

**Aid May Be Required by Officer — Penalty for Refusing.**

SECTION 5. Any officer aforesaid, in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person so required to aid, who neglects or refuses so to do, forfeits to the county not less than three nor more than fifty dollars; and if he does not forthwith pay such fine the court may imprison him not exceeding thirty days. (R. S., 1871, Chapter 80, Section 48.) 55 Me. 381.

**Police to Be Appointed by Mayor with Advice and Consent of Aldermen.**

SECTION 6. Policemen of the City of Portland shall hereafter be appointed by the mayor, by and with the advice and consent of the aldermen, and shall hold office during good behavior, subject, however, after a hearing, to removal at any time by the mayor, by and with the advice and consent of the aldermen, for inefficiency or other cause. The mayor may, for cause, suspend any policeman from duty, and such suspension shall continue in force till the next meeting of the aldermen. (Private Laws of 1878, Chapter 16. Amending, 1877, Chapter 346.)

(NOTE. When an officer is "subject after hearing to removal by the mayor, by and with the advice and consent of the aldermen," the hearing must be by the "board of mayor and aldermen." A hearing by the aldermen alone is not sufficient, even if by the officer's consent. 76 Me. 224.

Where an officer is removable, in the manner above stated, for "inefficiency or other cause," the mayor and alderman must find sufficient cause to exist as matter of fact, and so adjudicate, before a valid order of removal can be made. An omission, to pass upon the truth of the charges, invalidates the order of removal. 77 Me. 224.)

### **Appointment and Qualification — Mayor and Aldermen to Provide Rules and Regulations.**

SECTION 7. No person shall be appointed to the police or watch of the City of Portland, as policeman, patrolman, watchman, or keeper, or for any position of like rank, or for any position of inferior rank thereto, unless such person shall be a citizen of the United States and not over forty-five years, nor under twenty-five years of age, and shall have successfully passed a competitive examination, as herein provided, within two years before said appointment, and shall have had a continuous residence in the City of Portland, from at least two years before said examination to the time of said appointment.

When any policeman, patrolman, watchman or keeper shall have arrived at the age of sixty-five years he shall be honorably discharged. The mayor and aldermen shall, as soon as may be, after the passage of this Act, provide for such competitive examination by proper rules and regulations, which rules and regulations may thereafterwards be amended by said mayor and aldermen. (Private Laws of 1885, Chapter 486, Section 1.)

### **Examining Board, How Constituted.**

SECTION 8. Such rules and regulations shall determine who shall constitute the examining board, and how they shall be appointed. Said examining board shall consist of not less than three citizens, who shall serve without pay, and not more than a majority of whom shall be from the same political party, but shall include the city physician, or some other competent physician or surgeon of approved reputation and standing. Such rules and regulations shall provide for supplying all vacancies in such examining board. (Ib., Section 2.)

### **Examinations, How Conducted — Reports to Be Filed with City Clerk.**

SECTION 9. All such examinations, except the surgical part thereof, shall be public and after reasonable public notice to be prescribed by said rules and regulations; and the examiners shall make and file with the city clerk, to remain as part of the public files of the city, full reports of all said examinations with such special details as may be required by such rules and regulations, and shall state in said reports which candidates have successfully passed such examination; and the relative standing of such successful candidates. Except as otherwise herein

expressly provided, all said examinations and reports shall be as provided by said rules and regulations and amendments thereof. (Ib., Section 3.)

### **Appointments, How Made.**

SECTION 10. All appointments hereafter for any office or position described in Section 1, shall be made by the mayor with the approval of the aldermen, by selection from a list of not more than three persons from said successful candidates, who have been certified by the examining board as having attained the highest rank, and all removals from such office or position shall be likewise made by the mayor with said approval. (Ib., Section 4.)

### **Deputy Marshals, How Appointed.**

SECTION 11. Every appointment of captain of the watch, sergeant of police, and all other appointments to said police or watch, except as herein otherwise provided, and except the city marshal, deputy marshals or other head of police, and except detectives, not employed in the ordinary duties of the force shall be made by selection on recommendation of the marshal from those persons who have been members of said police or watch, for a continuous period of at least twelve months before such appointment. (Ib., Section 5.)

### **Marshal.**

SECTION 12. The city marshal shall be appointed by and hold office during the pleasure of the mayor. (Ib., Section 6.)

### **Not to Apply to Special Policemen.**

SECTION 13. This Act shall not apply to policemen or watchmen not in the pay of the city, nor to special policemen employed temporarily on extraordinary occasions. (Ib., Section 7.)

### **Powers of Mayor, Aldermen, Etc., Not Impaired.**

SECTION 14. Except as herein expressly provided, this Act shall not take away or impair any authority or power relative to police or watch vested in the city council, aldermen, mayor, or any other officer or official board of the City of Portland. (Ib., Section 8.)

### **Deputy Marshal, Appointment of.**

SECTION 15. The deputy marshals of the City of Portland shall hereafter be appointed by, and hold office during the pleasure of the mayor. (Laws of 1887, Chapter 252.)

(NOTE. The police officers of a city, although appointed by it, are not its private agents. For the duties, which they perform in protecting life and property, and preserving the peace, are not strictly corporate; nor are they performed for the exclusive benefit of the city in its corporate capacity.

So, although a police officer may himself be liable in damages for an unlawful arrest, the city will not be responsible to a person who has been arrested illegally, or to one who has been assaulted by a policeman, in an attempt to enforce a city ordinance, or for any unlawful or tortious acts, by which property or life is injured in the performance of police duty. 52 Me. 118, 57 Me. 375, 1 Allen 172.

A city is not liable to a person who suffers a bodily injury while aiding peace officers, at their request, in making an arrest. 55 Me. 381.

(For power to retire police officers upon half pay, see Pensions, page 528.)

## ORDINANCES.

### **City Marshal to Give Bonds — To Be Sworn.**

SECTION 1. The city marshal, before entering upon the duties of his office, shall give bond, with sureties, to be approved by the mayor and aldermen, in such sum as they may prescribe, and shall be sworn to the faithful performance of the duties of his office.

### **Duties of City Marshal—To Carry into Effect Laws and Ordinances.**

SECTION 2. It shall be the duty of the city marshal, from time to time, to pass through every street, alley, court, square, and public place of the city, to observe nuisances, obstructions or impediments therein, to the end that the same may be removed, according to law; to notice all offences against the laws; to be vigilant and active in detecting any violation or breach of any law or city ordinance, taking the names of the offenders, to the end that they may be prosecuted; to receive all complaints made for any breach of the laws, and for that purpose shall attend daily at his office, and at stated times. It shall be his duty to enforce and carry into effect, to the utmost of his power, all and each of the city ordinances, according to the true intent and meaning of the same, and to obey and execute all the commands and orders of the mayor and aldermen.

**Duties — Duty to Prosecute Offenders — To Lay before Mayor and Aldermen a Statement of Prosecutions, Etc. — To Render to Mayor and Aldermen Annually, an Account of Moneys Received — To Pay Over at the Close of Each Month — To Comply with Rules and Regulations.**

SECTION 3. It shall be the duty of the city marshal to prosecute all offenders against the laws of the State and ordinances of the city, within one week after detecting or ascertaining the offence or offences by them respectively committed; to attend regularly and punctually at all trials of offenders prosecuted in behalf of the city, and to use all lawful means for their effectual prosecution and final conviction; to lay before the mayor and aldermen a correct statement of all prosecutions by him instituted before the municipal court, within one week after their final determination. And it shall be his duty annually to render to the mayor and aldermen an account of the names of all persons from whom he may have collected fines, and for what offence, and the sums so collected from each, during his term of office; and at the close of each month he shall pay over to the city treasurer all moneys which he may have received belonging to the city; and he shall further perform such other duties, and comply with such other regulations as may at any time be prescribed to him by the mayor and aldermen. 1 Allen 172, 417, 9 Gray 78, 4 Allen 57.

**Deputy Marshals to Be Appointed — To Act as Captains of City Watch — Compensation.**

SECTION 4. The deputy marshals shall discharge all the duties of captains of the city watch, and they shall devote all their time to the discharge of the duties of their office, and they shall be entitled to receive for their services such compensation as shall be determined by the city council. (Ib., as amended by City Charter.) 155 Mass. 216.

**Duties of Deputy Marshals — To Obey and Execute Orders of Mayor and Marshal To Serve Warrants and Subpoenas — To Obey Rules, Etc.**

SECTION 5. It shall be the duty of said deputy marshals to act through the week, Sundays included, as the day police, to assist the marshal in the discharge of his official duties, to obey and execute all orders of the mayor and the city marshal, to officiate for the city marshal in his absence, to serve all warrants and subpoenas in criminal

matters which they may receive from the city marshal or municipal court, to endeavor to prevent all disturbances and violations of law, and to arrest and detain for further proceedings every person found by them violating any of the laws of the State, or ordinances of the city, and they shall obey all rules and regulations of the mayor and aldermen.

**Deputy Marshals Invested with Power, Etc., of Captain of Watch — To Assign to Night Police Limits — To Receive Reports — In Case of Sickness or Absence, the Mayor to Appoint a Deputy Marshal.**

SECTION 6. Said deputy marshals are hereby invested with all the powers and authority of captains of the watch, and they shall, every other night, by turns, discharge the duties of that office, and act throughout the night as captain of the watch. The captain of the watch shall each night assign to the night police their respective limits, and be present at the office, at the hour appointed by the mayor and aldermen for their discharge, to receive their reports and discharge them from further duty, unless in his opinion, it shall be expedient to continue the whole, or any number of them, on duty through the night, which at any time he is authorized to do; he shall also each night, unless his attendance is required at the watch house, ascertain by his personal investigation when practicable, whether the policemen and watchmen are faithful in the performance of their duties, and report the next morning to the mayor the officer who shall be found unfaithful. In case of sickness or inability of either of the deputy marshals to perform the duties incumbent on him, the mayor shall have authority to appoint another deputy marshal in his stead, so long as his services may be required.

**Policemen, How Appointed — Compensation — Duties — To Arrest and Commit to Watch House, Offenders — To Obey Rules, Etc. — To Obey Orders of Mayor, Etc.**

SECTION 7. The mayor, with the approval of the aldermen, shall also appoint, from time to time, such numbers of persons as they shall deem expedient, to constitute a police of the city, who shall be placed on duty at such hours and serve for such time as the mayor and aldermen shall determine; and they shall be entitled to such compensation for their services as the city council shall determine. It shall be incumbent on the police, during the hours they shall be on duty, to patrol constantly throughout their respective limits, to endeavor to pre-

vent all violations of law, and arrest and commit to the watch house all persons found by them violating any of the laws of this State, or ordinances of the city; they shall obey all rules and regulations established by the mayor and aldermen, and the orders of the mayor, marshal, or deputy marshals, and shall be subject to removal by the mayor, with the approval of the aldermen, whenever in his opinion it shall be deemed expedient. (Ib., as amended by City Charter.)

**Watchmen Shall Be Appointed — Their Duties — To Be Subject to Rules, Etc.**

SECTION 8. The mayor, with the approval of the aldermen may, from time to time, appoint such number of watchman as they may deem expedient, who shall be sworn and shall perform such duties and be subject to such rules and regulations as are or may be established by the mayor and aldermen. (Rev. Ord., 1855, as amended by City Charter.)

**Policemen and Watchmen Subject to Be Called upon for Extra Services — Compensation.**

SECTION 9. Said policemen and watchmen shall at all times, either by day or by night, be subject to be called upon by the mayor or city marshal, to assist in quelling any riot or disturbance, or arresting any offenders, or to perform any other duties of policemen that may be required of them, for all which extra services they shall be paid such compensation as the city council shall determine. (Ib.) 9 Gray 78.

**Penalty for Resisting Police in Discharge of Duties.**

SECTION 10. If any person shall resist the police in the discharge of their duty, or any member thereof, he shall pay a fine of not less than ten nor more than fifty dollars for each and every offence. (See Section 5 on page 538.)

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**RULES AND REGULATIONS OF THE MAYOR AND ALDERMEN.**

**Marshal or Deputy Marshal to Be at Station at All Times.**

SECTION 1. There shall be established a police office, at which the city marshal and deputy marshals shall attend under such arrangements approved by the mayor, as that one of said officers, or some member of the police department, to be designated by the city marshal, shall be

present at all times during the day or night for the purpose of receiving complaints from the inhabitants respecting offences against the laws of the State and ordinances of the city.

### **City Marshals to Prosecute for Violations of Law.**

SECTION 2. The city marshal or either of the deputy marshals, shall institute proceedings for the prosecution of all violations of the law and ordinances, within one week after the detection of the offence or offences, and attend to the trials of the same.

### **Books to Be Kept at Police Station.**

SECTION 3. Books shall be kept at the police office, in which shall be recorded in full the name of every person there detained, the time of each arrest, the offence charged, and the name of each person furnished with lodgings, all information received respecting violations of the ordinances of the city; all burglaries, robberies, larcenies, assaults and other offences whatsoever, with as many particulars relating thereto as possible; such especially as time and place, name of offender, complainant, witnesses, description of persons or stolen property, estimated value, etc. A true transcript of such books shall be furnished to the mayor daily in the report of the city marshal.

### **Police Station to Be Provided with Certain Books.**

SECTION 4. The police office shall also be provided with a copy of "Revised Statutes of the State of Maine," the "Revised Ordinances of the City of Portland," a "Portland Directory," an "English Dictionary," the "Bible," and two copies of the "Act regulating the appointment of the members of the Police Force of the City of Portland," of the "Rules and Regulations of the Board of Mayor and Aldermen of Portland respecting competitive examinations for the police force," of the "Code of Rules prepared by the Police Examining Board and approved by the Board of Mayor and Aldermen to govern admission to the Police Department," and of the corrected "Rules and Regulations of the Police Department."

### **Cells, Care of—Visitors to Be Accompanied by Officer.**

SECTION 5. The cells at the station house are to be kept clean and well ventilated. The door of every cell is to be carefully locked when prisoners are confined therein, the keys to be in charge of the officer in charge of the station. No person is to be allowed to visit the cells



when occupied unless accompanied by the officer in charge for the time being. Nor shall any conversation be held with any prisoner except in the presence of the officer on duty or the person or officer making the complaint.

### **Prisoners, Care of.**

SECTION 6. Prisoners are to be made as comfortable as possible, safe keeping, and not punishment, being the object during the time they are in custody of police. They are to be supplied with clear water to drink. Necessary refreshments may be supplied, which shall be paid for out of money taken from them, providing the charge against them does not relate to the money. The amount expended for refreshments is to be entered in the prisoner's property book.

### **Station House, How Conducted.**

SECTION 7. The station houses are to be used exclusively for police business, and must not be used for any other purpose. Civility and attention are to be shown to every person applying at the police station on business. No person shall be permitted to remain in the station houses without express permission of the officer in charge, except members of the department and persons on business.

### **Police Uniform.**

SECTION 8. Ordered, That the dress of the officers and members of the Portland Police Department, when on duty, shall be in conformity to the schedule described as follows:

City marshal to wear blue dress coat, with police buttons, black pantaloons, merino vest, black hat with gold star in a rosette on the same.

Deputy marshals to wear blue frock coat with police buttons, dark blue pantaloons, blue cloth cap with glazed covering. This dress to be dispensed with on detective duty.

Police to wear dark blue frock coat, dark blue pants, black silk or satin vest. In spring and fall, black cloth vest. In winter, single-breasted, made to button up to the top, except a loop across the top under the chin; black silk or satin neck stock. The buttons on the frock coat to be worn in the usual manner, and the usual number, and to be fastened with a ring through the eye, so that the same can be removed, and their places supplied by buttons of a different pattern, when the officer is permitted to lay aside his uniform, or when he leaves the department; blue cloth cap of uniform style and shape, made with glazed covers.

Marshal, deputy marshals and policemen shall wear dark blue overcoats, cut in uniform style, single or double-breasted, as the marshal shall decide, and of the same shade of color, and supplied with the police buttons, to be worn in the same manner as the buttons to be worn on the frock coat, at such seasons of the year as the marshal may direct.

On public occasions so much of the police uniform shall be worn as the marshal may direct or determine.

Nothing in the adoption of the uniform dress shall prevent the city marshal from ordering such dress for officers detailed for special duty, as he may think proper.

### **Qualifications of Officers.**

SECTION 9. The following qualifications shall be necessary for any one to be eligible as a member of the department:

1. To have been a qualified elector for general officers in the city for at least two years next preceding his appointment.
2. To be not over forty-five years of age when first appointed and at least five feet and eight inches in height.
3. To be able to read and write the English language.
4. To have never been convicted of crime.
5. To be of sound health and vigor, of unquestionable energy and courage, of temperate and industrious habits, of peaceable and courteous manners, decorous and cleanly in his person and dress, respectful to his superiors, prompt and decided in action, and disposed to be zealous in the service.
6. Applicants for appointment to membership in the police force shall present a petition in their own handwriting, stating the age, height, weight, place of birth, residence and occupation, and with such references as to character and qualifications as he shall think proper.

### **Beats — Hours of Service.**

SECTION 10. The city shall be divided into beats, and the hours of regular service shall be from time to time specified; but it is clearly to be understood by all members of the police force, that when occasion requires, the sphere of their duties is the entire City of Portland; and that they are liable to be called into service for any portion of each day, if necessary. No extra compensation will be allowed, except upon such bills as are approved by the city marshal, and the mayor and aldermen.

**Members to Wear Badge and Uniform — Conduct.**

SECTION 11. Every officer and member of the police department shall wear the required uniform and badge of his rank at all times unless permission to omit is granted by the city marshal or the mayor. They must maintain decorum and amiability among themselves, in the stations as well as out, and show proper respect to their superior officers, giving a salute whenever they meet them in the street or other public place; and it is especially enjoined upon the superior officers to acknowledge and return such salute.

**Policemen to Keep Note Books — Reports.**

SECTION 12. Every policeman shall be furnished with a book in which shall be noted by him:

What violations of law he sees and attends to.

The doors or entrances of stores or houses accidentally open, and whom he notified thereof, or what protection he afforded.

What alarms of fire he gives; and the time and his position when he hears an alarm given by others.

All nuisances on his route, so that they may be removed without delay.

All bad and dangerous places on the sidewalks and in the streets, first securing them from danger to the public.

Any other offences against the ordinances of the city, names of offenders, witnesses, etc.

He shall each day make report of all that he has done, and all important information that has come to his knowledge since his last report, exhibiting his book if requested. Erasures or alterations of any memorandum once made in this book are prohibited.

**Salary of Police to Be Paid Monthly — Vacations.**

SECTION 13. The salary and pay of members of the force shall be paid monthly to each person entitled thereto, subject, however, to such deduction each month as shall be made for loss of time or to satisfy fines imposed. Fourteen days' absence will be allowed each member of the force annually without loss of pay, or in that proportion for shorter terms of service.

**Punishment of Officers for Offences.**

SECTION 14. Any member of the police force may be punished for either of the following offences, by reprimand of the mayor, by suspension, until the next meeting of the board of mayor and aldermen, by

the mayor, by a fine not exceeding three days' pay by the committee on police, and by removal by the mayor with the advice and consent of the aldermen, to wit:

Absence without leave.

Any act of insubordination or disrespect towards a superior officer.

An assignment of his wages.

Any acts of oppression or tyranny.

Any legal offence.

Conduct unbecoming an officer.

Conduct injurious to the public peace or welfare.

Contracting a debt under false or fraudulent pretences.

Continued and persistent neglect to pay just debts.

Conversing during the tour of patrol duty with any other member of the force, or with a citizen, without any good cause therefor.

Intoxication.

Immoral conduct.

Incapacity — mental, physical or educational.

Not properly patrolling his route during his tour of patrol duty.

Neglect of duty.

Neglect or disobedience of orders.

Neglecting or refusing to pay a debt for uniform, clothing, or for rent, or the necessities of life.

Unnecessary absence from his route during his tour of patrol duty.

Violation of the rules.

Any other act contrary to good order and discipline.

### **Removal from Force for Certain Offences.**

SECTION 15. Any officer of the police, or policeman, who shall enter any drinking or gambling saloon, house of ill fame, or other disreputable place, for any purpose whatsoever apart from his official duty, and any officer or policeman who shall, under any circumstances, whether on duty or not, drink spirituous liquors therein, or engage in any act which is contrary to the laws of the State, or ordinances of the city, shall be subject to charges and removal. Neither will smoking be allowed by any member of the force outside the station houses, when on duty or in uniform.

### **Discussions on Certain Subjects Forbidden.**

SECTION 16. All members of the police department shall avoid all religious or political discussions at the station houses; they shall not

interfere, or make any use of the influence of their office in elections, but may quietly exercise the right of suffrage, as other citizens.

### **Acceptance of Gifts or Rewards Forbidden.**

SECTION 17. No member shall directly or indirectly accept from any person, either liable to arrest or to complaint, or from any person in custody, or after he has been discharged, or from any of such person's friends, any gratuity, reward or gift whatsoever; nor from any person money or any other compensation for services rendered or damages sustained while on duty; nor shall any member of the department receive any compensation for services rendered, or reimbursements for expenses incurred by him in connection with his official services, without the approval of the board of mayor and aldermen; nor until he shall have furnished a report in writing of the nature and extent of the services so rendered, and a detailed account of the expenses so incurred.

The board of mayor and aldermen may, in their discretion, permit the members of the force, for services rendered by them in the discharge of their duties which are especially meritorious, to receive rewards or presents tendered them for such services.

In each and every case application must be made to the board of mayor and aldermen, in writing, for permission to receive any reward or present, and it will be granted, or not, as the board may deem advisable. The nature or amount of the reward or present must be stated in the application.

### **Untruthfulness — Divulgement — Testifying in Court.**

SECTION 18. Untruthfulness is a grave disqualification for the police service. Members of the police force are required to speak the truth at all times and under all circumstances, except in cases where they are not allowed by the rules of the service to divulge the facts within their knowledge, in which case they will say nothing. Failure so to do will subject the offending member to charges and dismissal. When called upon to give evidence, or make any deposition, they are under the direction of the court, and in response to questions asked are to state in a clear and distinct voice, truly, all they know respecting the matter inquired of, without fear or reservation, and without any desire or design to influence the result.

### **Divulgement of Orders Forbidden.**

SECTION 19. No member of the department shall communicate any information respecting orders he may have received, or any regulation

that may be made for the government of the department, nor shall he divulge any of the business of the department except by special authority of his superior officers.

#### **Not to Leave City without Permission.**

SECTION 20. No member of the department shall leave the city without permission of the mayor or city marshal; if a policeman, he must bring a certificate from one of the deputy marshals that leave is asked for sufficient cause, and that his absence will not prejudice the service.

#### **Members to Be Present at Roll Calls.**

SECTION 21. Each member shall be present at the daily roll calls, and attend at the station houses at the times appointed, and if absent, except by permission or for sufficient reasons, deductions shall be made from his pay.

#### **Officers Not to Walk with or Talk to Persons Except in Line of Duty.**

SECTION 22. Policemen on their beats shall not walk or talk together or with any other person, unless it be to communicate information pertaining to the department or in the line of their duty; and such communications must be as brief as possible.

#### **Officers to Note Removals from and into Their Beats.**

SECTION 23. As far as he can, without intrusion upon the privacy of individuals, he must note all removals from or into the limits of his beat, and acquire such knowledge of the inhabitants as will enable him to recognize them.

#### **Officers to Exhibit Badge and Give His Name when Required.**

SECTION 24. He shall furnish such information and render such aid to all persons, when requested, as is consistent with his duty, and he shall keep his number in sight, and give his name and number to all persons who inquire.

#### **Officers to Direct Strangers — To Render Aid.**

SECTION 25. He shall direct strangers, and others when requested, the nearest and safest way to their places of destination, and when necessary, cause them to be accompanied thither by one of the police,

but shall not leave his beat for that purpose, but pass such persons from his beat to the next. If he hear the cry of police or other call for assistance, he shall proceed to render aid with all despatch, taking every practicable precaution for the protection of his beat when he leaves it for this or any other purpose.

**Officers to Assist Lost Children — To Note Contagious Diseases and Deaths.**

SECTION 26. He shall cause all children who have strayed, or infants who have been abandoned, to be taken to the residence of their parents, if known, and within the bounds of his beat ; and if not, to the station house. He shall take note of all cases of contagious disease, or sudden death where there is reasonable ground to suspect criminality, and render immediate aid in cases of accident or illness in the streets, ascertain all important particulars connected therewith, making record thereof.

**Officers to Warn People of Pickpockets.**

SECTION 27. He shall give suitable warning whenever he discovers a pickpocket in a crowd at railroad stations, theatres, or any other thronged place.

**Officers to Watch Conduct of Persons of Bad Character.**

SECTION 28. He shall strictly watch the conduct of all persons of known bad character in such manner that it will be evident to them that they are watched ; fixing in his mind such impressions as will enable him to recognize persons whom he frequently meets in the streets at night, and to the utmost of his power prevent the commission of assaults, breaches of the peace and all other crimes about to be, committed.

**Officers to Note Junk Shops, Second-Hand Dealers, Saloons, Etc.**

SECTION 29. He shall note all junk shops, and shops of second-hand dealers and pawnbrokers, all places of amusement and all licensed houses within his beat, and also all suspected gambling houses, public saloons for drinking, dancing or prize fighting, mock auction rooms, venders of lottery tickets, houses of ill fame and all other suspicious persons and places therein, keep a list thereof in his book for reference, and report the same to his superior officers.

**Officers to Note Obstructions and Defects.**

SECTION 30. He shall note all street and sidewalk obstructions, and defects therein from which accidents may occur, removing them when practicable; all places for which temporary permits are granted for buildings, or when openings or excavations are being made, and not suffer them to be continued without examining the permits authorizing the same, and shall cause suitable accommodations to be provided for the public travel; all coal holes left exposed or insecure; all street lamps broken, or not lighted at proper times, or too early extinguished, when not clean or not giving sufficient light; all wooden buildings erected or being erected contrary to law; or any building defectively built or become unsafe, all places where noisome, dangerous, or unwholesome trade is carried on; and all nuisances and other matters relating to the safety and convenience of the public or to the interests of the city which may exist or occur on his beat, and shall make report thereof without delay, to his superior officers.

**Officers to Examine Doors, Windows, Etc., in the Night Time — Snow, Ice, Garbage, Ashes, Etc.**

SECTION 31. He shall examine in the night time, all doors, gates and dwellings of windows and stores, to see that they are properly secured, and if not, give notice to the inmates, if any, and if not, make the same fast, and notify the owner in the morning. He must watch vacant houses to prevent depredations; be vigilant to prevent fire; call the attention of abutters to the state of their sidewalks when by snow, ice or other cause they are rendered dangerous, or when obstructed by goods or signs extending more than six inches over the same, or other encumbrance; take note of all ashes, garbage, dead animals and other nuisance thrown into the street, and where the street is used for washing carriages or horses, and improperly obstructed thereby. And where the laws and ordinances, orders, rules and regulations for the government of such cases, upon notice given, are not forthwith obeyed, the officer shall do what he can himself to make the way safe and convenient, ascertaining the names of the parties offending, and report the same for complaint and prosecution.

**Loitering and Obstructing Sidewalks.**

SECTION 32. The police shall not allow the sidewalks or carriage ways to be obstructed, or a nuisance to be caused by the assemblage of idle and disorderly persons at the corners of the streets, at the doors of



public halls, saloons, etc., on the highways, to the disturbance or annoyance of passers-by or of the neighborhood. Persons committing such offences shall be civilly requested to disperse ; and if they refuse, shall be arrested.

### **Beggars.**

SECTION 33. When any person begs in the street or goes from door to door soliciting alms, the officer having knowledge of same shall inquire the name and abode of such person and note the same for record, and direct such person, if in distress, to the overseer of the poor, or to any charitable association in his knowledge affording relief in such cases, or arrest and convey such person to the police station if he deem it expedient.

### **Officers to Assist Foot Travelers in Crossing Streets.**

SECTION 34. When any way becomes blocked, he shall use his best efforts to aid the drivers in disentangling the same ; and where the stream of travel is continuous, open the way for foot travelers wishing to cross, attending women, children, and aged persons who would be otherwise exposed to danger.

### **Duty in Time of Disturbances.**

SECTION 35. On the occurrence of serious disturbance it is the first duty of the police, if possible, to restore peace by moderate efforts of persuasion, and to disperse the crowd ; if these fail, the offenders must be dispersed by force, and the principals therein arrested.

Coolness and firmness will be expected, in all cases, of every member of the department ; and in times of extreme peril, the police must be careful to act together and to protect each other in the restoration of peace. Whoever shrinks from danger or responsibility at such a moment, will be discharged as unworthy of a place in the service.

### **Officers Not to Apply for Warrants in Certain Cases, Nor to Assist in Civil Cases.**

SECTION 36. No member of the police will be permitted to apply for a warrant for assault upon himself, without reporting the case to the city marshal, and obtaining from him, or from the mayor, permission in writing to make such application.

Members of the department must not render any assistance in civil cases, except to prevent a breach of the peace or to quell a disturbance

actually commenced; nor serve warrants of search without consent of the mayor or city marshal.

#### **Officers to Serve Warrants and Arrest Certain Persons.**

SECTION 37. He shall serve all warrants of arrest promptly, and shall deliver the person arrested over to the officer in charge of the station, and make proper return thereof on his warrant. He may also arrest without a warrant any person reasonably suspected of having committed a felony, or seen committing a breach of the peace, or being unduly armed with a dangerous weapon, and also nightwalkers. He may also examine any person whom he shall see walking abroad in the night after eleven o'clock, and whom he shall have reason to suspect of any unlawful design, and may demand of him his business abroad at such time, and whither he is going.

#### **Officer to Require Accuser to Go to Station.**

SECTION 38. When any party charges another with crime, and insists that the party so charged shall be taken into custody, the officer making the arrest shall require the accuser, if unknown to him, or if there is any other sufficient reason for it, to go with the accused to the police station.

#### **Arrests, How to Be Made.**

SECTION 39. He shall make all arrests in as easy and quiet a manner as possible, only using sufficient force to secure the prisoner and no more, and in no instance shall he strike a prisoner, except in case of self-defence. When in custody he shall see that the prisoner is properly secured and cared for until removed from his custody according to law, and any unnecessary deprivations or abuse to a prisoner while in custody will be met with reproof and punishment.

#### **Officers to Watch Disorderly Houses.**

SECTION 40. He shall carefully watch all suspected disorderly houses, gambling houses and houses of ill fame within his post, and observe by whom they are frequented, and report his observations to his commanding officer.

#### **Stolen Goods to Be Taken to Station.**

SECTION 41. All property which shall come into the possession of the members of the force, whether stolen, found, or taken from prisoners

arrested, shall be taken to the police office, unless otherwise ordered; and all articles thus delivered shall be recorded and marked for identification.

### **Duty at Fires.**

SECTION 42. At an alarm of fire, it shall be the duty of the deputy marshal forthwith to proceed, or to despatch some one to the spot, to ascertain if any policemen are needed to preserve order and protect property, and if necessary to detail the needed assistance.

When a policeman discovers a fire he shall first ascertain if it can be extinguished without alarm; if not, he shall at once proceed to the nearest signal box and give the alarm. When he gives an alarm he shall remain awhile near the box to direct the firemen when they arrive. He shall note the time and his position when he gives the alarm or hears one, and any circumstances connected therewith which may seem to be of importance.

### **Duty at Riots.**

SECTION 43. Whenever there is reason to apprehend a riot or serious disturbance of the peace, information should be given as speedily as possible at the police office and to the mayor or city marshal.

### **City Marshals to Proceed to Scenes of Disturbances.**

SECTION 44. In case of any riot, or other sudden emergency, requiring the services of the police, on notice being given, the city marshal and deputy marshals shall forthwith proceed to the scene of disturbance with the whole police force they can muster, and be vigilant in suppressing the disorder. Should the city marshal have any doubt of his ability to restore order, or to preserve the peace, he will immediately send notice to the mayor.

### **Officer to Patrol Beat.**

SECTION 45. He shall patrol his beat constantly, giving particular attention to the most important portions of said beat. He shall not remain longer at the police signal boxes than is necessary to communicate with police headquarters.

### **Officer to Appear in Regulation Uniform in Certain Cases.**

SECTION 46. He shall when on duty upon the street, or as witness in court, appear in regulation uniform, coat buttoned up, boots blacked, and his general appearance neat and soldierly.

## **RULES AND REGULATIONS OF MAYOR AND ALDERMEN RELATING TO POLICE COMMISSIONERS.**

### **Police Commissioners, How Appointed.**

SECTION 1. The mayor shall, in the month of April, appoint three persons to act as a police examining board. One of whom shall be appointed for one year, one for two years and one for three years, and all subsequent annual appointments shall be for three years.

### **Organization and Meetings.**

SECTION 2. The examining board shall, in the month of April, organize by the election of a chairman and clerk, and all subsequent meetings for the purpose of examination of candidates shall be held on the last Tuesday of April, July, October and January in each year, in some room of the City Building, to be designated by the mayor.

### **Vacancies, How Filled.**

SECTION 3. Any vacancies occurring in the board shall be filled by the mayor for the unexpired term.

### **Examining Board to Prepare Rules.**

SECTION 4. The examining board shall immediately prepare and transmit to the board of mayor and aldermen, a code of rules to govern admission to the police department, and no rule or rules shall be deemed operative, unless approved by the mayor and aldermen.

## **RULES OF THE EXAMINING BOARD, APPROVED BY THE MAYOR AND ALDERMEN.**

RULE 1. Applicants will, in their own handwriting, fill and sign blank applications to be obtained at and to be returned to the office of the city clerk.

RULE 2. The clerk will furnish each applicant with a corrected copy of the Rules and Regulations for the Government of the Portland Police Department, and a copy of the new Police Act and of this Code.

RULE 3. Applicants may appear personally at the room of the examining board in the City Building at any of its stated public meetings.

RULE 4. Unless otherwise directed, the medical and surgical examination will first be undergone, and no candidate unable to pass such test will be examined further.

RULE 5. Candidates will be expected to answer promptly all questions which may be propounded to them by the board, or by either of its members, whether required in writing or verbally.

RULE 6. The board reserves to itself all necessary time for deliberation, and, if necessary, for inquiry touching candidates, as well as the right to recall them for further examination before announcing its decision.

RULE 7. Any applicant may, by consent of the board, withdraw his application at any time before its decision upon his surgical examination.

RULE 8. The names of all applicants who have passed the surgical and medical examination will be published in the four daily newspapers of the city, and, ordinarily, the name of no successful candidate will be reported until after one month from such publication.

RULE 9. During said month, recommendations or remonstrances in reference to any candidate will be received and considered by the examining board, if signed by responsible citizens.

RULE 10. The examining board reserves the right to report the name of a successful candidate within the month after publication, if, in its opinion, the public interest should require it.

RULE 11. Falsehood, equivocation, evasion, misrepresentation or concealment of the truth, if discovered, will insure the rejection of an applicant.

RULE 12. Applicants will take notice that the act expressly requires full reports of all examinations, whether successful or otherwise, to be made and filed with the city clerk, to remain as part of the public files of the city.

RULE 13. Successful candidates will be divided into grades, according to their relative standing, and no candidate can be certified for appointment from a lower grade, until the higher grades have been exhausted.

RULE 14. No candidate of intemperate, licentious, profane, quarrelsome, disorderly or indolent habits or reputation need apply with expectation of success.

RULE 15. The examination is designed to test the physical, moral and mental qualifications of candidates, including an inquiry into their

strength, activity, power of endurance, courage, self-control, judgment, willingness to obey, disposition, quickness of comprehension, manners, bearing, accuracy of perception, thought and expression, promptness, capacity and willingness to learn, and their familiarity with the streets, localities and principal buildings and objects in the city and vicinity.

RULE 16. When a member of the police force shall be ordered before the examining board by the mayor for examination, his examination shall be conducted as under Rules 4, 5, 6, 9, 11 and 15, of the present Code of Rules governing admission to the police department, and the examiners shall make a full report of such examination to the mayor and aldermen for their information.

RULE 17. The following is the form referred to in Rule 1:

APPLICATION FOR APPOINTMENT ON THE POLICE FORCE OF  
PORTLAND.

The applicant will answer the following questions in his own handwriting, date and subscribe the same, and return to the city clerk:

1. When were you born?
2. Are you married?
3. Where were you born and where have you lived since your birth?
4. If you are a naturalized citizen, when and where were you naturalized?
5. How long have you lived continuously in Portland?
6. In what ward, street and number do you now live?
7. What is your present occupation, and what has it been for the past two years?
8. What is your height?
9. What is your weight?
10. Do you use intoxicating liquors?
11. Have you ever been upon any police force; if so, when, where, and how long?
12. If you once belonged to any police force, why did you leave it?
13. What is the present state of your health? Have you ever suffered any severe sickness; and if so, when, and what was its character? Have you a regular physician; and if so, whom?
14. To whom can you refer as to your habits, character, and general fitness for policeman?

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19—.

## CHAPTER 79.

# PORTLAND STREET SPRINKLING COMPANY.

### Statutes.

#### **Corporation Authorized to Lay Pipes — Restrictions and Regulations — Damages for Obstructing Streets.**

SECTION 1. The Portland Street Sprinkling Company, a corporation organized under the general law of this State for street sprinkling and other purposes, whose certificate of organization was filed in the office of the secretary of State on the third day of April, 1886, and whose place of business is in the City of Portland, in the State of Maine, is hereby authorized to lay down, in and through the streets of said City of Portland, and to take up, replace and repair, all such pipes, aqueducts and fixtures as may be necessary for the objects of their incorporation, first having obtained consent of the city council by two-thirds concurrent vote therefor, and under such restrictions and regulations as the city council, by two-thirds concurrent vote, may see fit to prescribe, and any obstruction in any street of said city, or taking up or displacement of any portion of any street, without such consent of the city council, by two-thirds concurrent vote, or contrary to the rules and regulations that may be prescribed as aforesaid, shall be considered a nuisance, and said company shall be liable to indictment therefor, and to all the provisions of law applicable thereto, and said company shall, in all cases, be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up or displacement of any street by said company whatever, with or without the consent of the city council, by two-thirds concurrent vote, together with the counsel fees and other expenses incurred by said city in defending any suit to recover damages as aforesaid, with interest on the same, to be recovered in an action for money paid to the use of said company. (Private Laws of 1889, Chapter 552, Section 1.)

**Company Shall Not Obstruct Travel—Shall Not Impair  
Any Public or Private Sewer—Liability.**

SECTION 2. Whenever the company shall lay down any pipes or aqueducts in any street, or make any alteration or repairs upon their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable, and shall at their own expense, without unnecessary delay, cause the earth and pavement by them to be replaced in proper condition. They shall not be allowed in any case to obstruct or impair the use of any public or private drain, or common sewer, or reservoir; but said company shall have right to cross, or where necessary, to change the direction of any private drain in such a manner as not to obstruct or impair the use thereof, being liable for any injury occasioned by any such crossing or alteration to the owner thereof, or any other person, in an action upon the case. (Ib., Section 2.)

**Negligence, How Punished—Damages, How Recovered.**

SECTION 3. If said company or any of their servants or officers employed in effecting the objects of the company, shall wilfully or negligently place or leave any obstruction in any of the streets of Portland, beyond what is actually necessary in constructing their works, laying down, taking up and repairing their pipes and fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street in which the earth or pavement may have been removed by them, the company shall be subject to indictment therefor in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fines as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictment aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer in his person or property by reason of any such negligence, wilfully or omission, he shall be entitled to recover damages of the company therefor by an action on the case in any court of competent jurisdiction. (Ib., Section 3.)

**City Council Shall Control Acts of Corporation.**

SECTION 4. The city council, for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said corporation, which may in any manner affect the health, safety or convenience of the inhabitants of said city. (Ib., Section 4.)



## CHAPTER 80.

# POUNDS AND IMPOUNDING BEASTS.

### Statutes.

(R. S., Chapter 23.)

#### **Each Town to Keep a Pound — Forfeiture for Neglect, How Expended.**

SECTION 1. Each town shall constantly keep and maintain in such place as the inhabitants direct, one or more sufficient pounds for the reception of beasts liable by law to be impounded; and for six months' neglect so to do, forfeits not less than fifty dollars, to be expended by an agent appointed by the court to build or maintain such pounds. (15 Me. 237, 63 Me. 88.)

#### **Penalty for Beasts Going at Large — May Be Impounded.**

SECTION 2. For every horse, horse kind, ass, mule, swine or neat beast found at large without a keeper in the highways, town ways, or commons of the town, the owner forfeits seventy-five cents, twenty-five cents for each goat, and ten cents for each sheep so found, recoverable in an action of debt; or the beasts may be impounded until such forfeiture, with the charges of impounding and keeping them, and all fees, are paid by the owner or claimant. (17 Me. 189, 63 Me. 155, 468.)

#### **Penalty for Ungelded Horses and Rams Going at Large.**

SECTION 3. If such horse is an ungelded male one year old or upwards, his owner forfeits a further sum of four dollars. If any ram or he goat is found going at large out of the owner's enclosure, between the tenth day of August and the twentieth day of November, his owner forfeits a further sum of five dollars.

#### **Damages, How Recovered by Sufferers — Beasts May Be Distrained — Lien.**

SECTION 4. Any person injured in his land by sheep, swine, horses, asses, mules, goats, or neat cattle, in a common or general field, or in a

close by itself, may recover his damages by distraining any of the beasts doing it, and proceeding as hereinafter directed, or in an action of trespass against the person owning or having possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond to the judgment as in other cases, whether owned by the defendant or only in his possession. But if the beasts were lawfully on the adjoining lands, and escaped therefrom in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor. (2 Me. 74, 409, 5 Me. 356, 360, 13 Me. 371, 376, 14 Me. 420, 15 Me. 241, 17 Me. 178, 29 Me. 282, 286, 33 Me. 62, 35 Me. 28, 48 Me. 375, 59 Me. 456, 63 Me. 89, 155, 86 Me. 342.)

### **Poundkeepers — Bond — Towns Responsible.**

SECTION 5. Each town shall annually choose a poundkeeper for each pound therein, who shall be sworn, and before he acts, shall give bond with sureties satisfactory to the municipal officers, for the faithful discharge of his duties; and the town shall be responsible for all his illegal doings or defaults, to the party injured, in an action on the case. (38 Me. 588, 46 Me. 543, 63 Me. 88.)

### **Poundkeeper to Keep Book of Records.**

SECTION 6. Each poundkeeper, in a book provided by the town, shall record at length all certificates received from persons committing beasts to the pound, or finding stray beasts, and a single copy of all advertisements by him posted or published; and shall note therein when a beast was impounded, and when and by whom taken away, and all his proceedings in the impounding and sale specified in Section 13, the price for which said beast was sold, the name of the purchaser, and the disposal of the proceeds of sale; a copy of said record attested by him or his successor shall be evidence for the purchaser of his title to said beast, and of the truth of all the facts thus recorded; for making such record, and for each copy thereof, the poundkeeper shall receive twenty-five cents; and said book shall be delivered to his successor in office, and be open to the inspection of all persons interested.

### **To Restrain Beasts Impounded.**

SECTION 7. The poundkeeper shall restrain the beasts impounded in the town pound, or after the first day, in such other place as is more

comfortable, or safe, and more convenient for food and drink; which shall be furnished them by him at the expense of the impounder. Unless payment is made in advance, or sufficient security therefor rendered, he need not receive such beasts into pound.

**Impounder to Furnish Certificate of the Cause of Impounding — Form of Certificate.**

SECTION 8. Before the poundkeeper receives any beast into pound, the impounder shall furnish him with a certificate under his hand, briefly describing the beast, the cause of impounding, the amount of damages or forfeiture claimed, and charges of impounding then accrued, of the following purport:

To the Poundkeeper of ——— :

The undersigned, A. B. of C., herewith commits to pound a horse (or cow, as the case may be, with a short description of the beast,) taken up in the highway, (or inclosure of said A. B., as the case may be,) in C., and the said A. B. demands—— dollars and——cents, for damages, (or forfeiture as the case may be,) and the unpaid charges for impounding the same.

Witness my hand at C., this——day of——, 19—.

———A. B.

(17 Me. 191, 239, 242, 18 Me. 248, 28 Me. 490.)

**Beasts Not to Be Delivered until Damages and Costs Are Paid.**

SECTION 9. The poundkeeper shall not be liable to an action for receiving or detaining any beast so committed, until the sums claimed by such certificate, and all other due expenses, costs and fees are paid to him, except as provided in the next section.

**Proceedings, if Claimant Objects to Amount Demanded — Form of Warrant, Form of Return — Notice — Oath.**

SECTION 10. If the claimant of such beast objects to the amount stated as damaged, or if no claimant appears, the poundkeeper shall, within ten days and not afterwards, issue under his hand, to two disinterested persons of said county, a warrant of the following purport:

D. ss. To E. F. and G. H., two disinterested persons of said county:

Greeting:

You are hereby appointed to view and estimate, upon oath, according to your best judgment, the damages done to A. B. by the horse (or oxen, as the case may be) owned or claimed by I. K. (or, by owner unknown), and to make due return to me within twenty-four hours, with your doings therein; first giving said A. B. reasonable notice of the time when you will view the place where the damages were done.

Given under my hand at C., this — day of —, 19—.

L. M., Poundkeeper.

## RETURN OF THE APPRAISERS.

Pursuant to this warrant, the undersigned, being first sworn to the faithful performance of the trust to which we were appointed, and having given said A. B. reasonable notice as required, hereby certify that we have viewed and estimate said damages at ——— dollars and ——— cents, and no more.

E. F., } Appraisers.  
G. H., }

C. ———, 19—.

And said persons, being first sworn, shall give reasonable notice to the impounder, and to the owner of such beast, if known and resident in the town, of the time appointed for the view, and proceed to estimate damages accordingly, and make return to the poundkeeper of their doings in writing, under their hands. The oath may be administered by said poundkeeper, or by a justice of the peace, and must be certified on the warrant.

**Proceedings, When Beasts Are Taken up As Estrays — Penalty for Not Delivering Estray to Poundkeeper.**

SECTION 11. Whoever takes up, as an estray, in any public way or commons, or in his enclosure or possession, any such beast, shall within ten days, if no owner calls for him, commit him, with a certificate as described in Section 8, to the poundkeeper of his town, who shall carefully keep him until called for by his owner, and until all due charges are paid, or he shall be disposed of as hereinafter provided; and whoever does not so commit such beast shall lose the expense of his keeping, and forfeit one per cent. on his value for each week, after the ten days, until he so commits him, or the forfeiture amounts to his value. (2 Me. 408, 59 Me. 456, 63 Me. 89, 156.)

**Poundkeeper to Advertise.**

SECTION 12. When a poundkeeper has so received any beast, he shall forthwith post and keep posted for three days at his dwelling house, and in two other public places in his town, advertisements by him signed, stating the name of the impounder or finder, the time and cause of impounding, and a brief description of the beast, and shall notify the owner to pay lawful damages and charges, and take the beast away; and shall give like public notice by the town crier, if there is any in the town. If the value of the beast exceeds ten dollars, a copy of such advertisement shall be inserted in some newspaper, if any, printed in the county. (17 Me. 242, 28 Me. 481.)

**If Owner Does Not Redeem, and Beasts are Not Replevied in Ten Days, Poundkeeper to Advertise.**

SECTION 13. When a beast is lawfully impounded as aforesaid, if the forfeiture, damages, and costs are not paid, or the beast replevied, in ten days after the notice, provided in the preceding section, is given, the poundkeeper shall, without other process, sell the beast at public auction, after having posted in two public places in his town, at least forty-eight hours before the time of sale, notices of the time, place, and cause of sale, with a brief description of the beast; and for posting such notices and making such sale, he shall have the same fees as constables for similar services.

**Sale May Be Adjourned under Certain Circumstances.**

SECTION 14. If the poundkeeper is informed, or has reason to believe, that the beast impounded has strayed from a drove, or does not belong to an inhabitant of the town, he shall adjourn the sale thirty days, and publish notice thereof in such papers as in his opinion may give information to the owner, and shall be allowed a reasonable sum therefor; and the proceeds of such sale shall be disposed of as hereinafter provided.

**Damages to Be Appraised.**

SECTION 15. The poundkeeper, before making such sale, shall cause the damages, if any are claimed, to be appraised as in Section 10, within ten days after giving the notice required by Section 12.

**Disposal of Proceeds of Sale.**

SECTION 16. The poundkeeper shall retain his lawful charges and fees, and pay to others their lawful dues, and the balance to the treasurer of his county within thirty days. Such treasurer or his successor shall pay it over at any time within six years, on the written request of any person who proves that he was the owner of the property at the time of sale; and if he refuses so to do, the claimant may appeal to the county commissioners, whose decision thereon shall be final. If such balance is not claimed in six years, it shall belong to the county.

**Owner May Redeem at Forced Sale.**

SECTION 17. The owner of such beast, at any stage of the proceedings before sale, may redeem it on payment of all lawful claims thereon up to the time of his demand to redeem.

**Replevin of Beasts Impounded — Proceedings — Sale Postponed.**

SECTION 18. An action to replevin such beasts shall be brought against the impounder or finder, and not against the poundkeeper, but a copy of it shall be served on both; and in other respects the process shall be regulated by Chapter 96 of the Revised Statutes. If such action is brought after notice of sale and before sale, the sale shall be postponed until it is decided, and no such action can be sustained unless the writ is served before sale. (17 Me. 187, 18 Me. 247.)

**Rescue and Punishment Thereof.**

SECTION 19. Whoever, in order to prevent the impounding of any beast lawfully in possession of another, and taken for the causes herein mentioned, rescues him, or directly or indirectly causes his escape, forfeits not less than five, nor more than twenty dollars, and is liable in an action on the case to the party injured for the full damages, with charges and costs, which he might receive by impounding the beast. (34 Me. 13.)

**Pound Breach and Punishment Thereof.**

SECTION 20. Whoever breaks a pound, or otherwise directly or indirectly delivers a beast from the place of his lawful restraint, forfeits to the town not less than ten, nor more than fifty dollars; and is liable to the party injured or the impounder, in an action on the case, for double the damage or forfeiture, which he might have received by impounding the beast; and when such acts are committed by a minor, or an apprentice, legally bound by deed, such action may be brought against the minor or an apprentice, or against his parent or guardian, under whose care he then was.

**Restrictions as to Defence in Such Cases.**

SECTION 21. In an action for rescuing beasts distrained or impounded, the insufficiency of the fences, or other fact to show the distress or impounding illegal, shall not be given in defence; but to avail himself of such illegalities the party relying thereon must proceed in replevin.

**Limitation of Actions for Forfeitures.**

SECTION 22. Forfeitures mentioned in this chapter may be recovered by the prosecutor in actions of debt, unless otherwise provided;

and civil actions therefor must be commenced within ninety days after the forfeiture accrued, unless otherwise limited.

### **Poundkeeper's Fees.**

SECTION 23. The poundkeeper's fees shall be twenty-five cents for impounding one or more beasts at one time; twelve cents for recording each certificate of advertisement; and the same for posting or publishing each advertisement, with four cents a mile for necessary travel.

### **Compensation to Impounder.**

SECTION 24. The poundkeeper shall allow the impounder a reasonable sum for his trouble, not exceeding half the respective forfeitures mentioned in Sections 2 and 3, besides the forfeitures to which he is entitled under those sections.

### **Expense of Keeping Beasts Impounded, Regulated.**

SECTION 25. The poundkeeper's price for keeping and feeding the beasts committed to pound or to his custody, as aforesaid, shall be fixed by the municipal officers, and recorded on the town books by the town clerk, and be binding until altered by said officers.

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## **ORDINANCES.**

### **Cows Not to Go at Large.**

SECTION 1. No cows shall be permitted to go at large, at any time, in any of the parks, squares, public grounds, streets, lanes, or alleys of the city.

### **Penalty.**

SECTION 2. If the owner of any cow shall suffer the same to go at large on any park, squares, public grounds, street, lane, or alley of the city, he shall forfeit and pay a sum not less than one nor more than five dollars for each offence.

### **City Marshal to Prosecute.**

SECTION 3. All informations and complaints for violation of the preceding sections shall be made to the city marshal, whose duty it shall be to cause the owners of any such cow or cows to be prosecuted therefor.

**Cows to Wear Straps around the Neck.**

SECTION 4. Every cow kept in the city shall at all times wear around the neck, a strap of not less than three inches in width upon which the name and residence of the owner shall be legibly painted or printed. For every cow found running at large without said strap, the owner of said cow shall forfeit and pay a sum not less than five nor more than ten dollars.



## **CHAPTER 81.**

# **PRINTING.**

### **ORDINANCES.**

#### **Committee on Printing, Duties of.**

SECTION 1. All printing required by the city shall be done under the direction of the joint standing committee on printing except in cases where by order of the city council some other committee or officers are especially authorized to procure the same to be done.

#### **Bills for Printing to Be Approved by Committee.**

SECTION 2. No bills for printing shall be allowed by the committee on accounts unless the same be approved by the committee on printing or by the committees or officers especially authorized to incur the expense.

#### **New Committee to Complete Work of Old Committee.**

SECTION 3. All documents or other matter referred to joint standing committees on printing, the printing of which shall not be completed at the end of the municipal year, shall be completed under the direction of the joint standing committee on printing of the next city government.

## **CHAPTER 82.**

# **PUBLIC BUILDINGS.**

### **ORDINANCES.**

#### **Committee on Public Buildings to Be Appointed.**

SECTION 1. There shall be appointed, annually, a joint committee of the city council, to be called the committee on public buildings, to consist of two members of the board of mayor and aldermen, and three members of the common council.

#### **To Have Care and Custody of Public Buildings, except, Etc.**

SECTION 2. The said committee shall have the care and custody of all buildings belonging to the city, and of the erection, alteration and repair thereof, except as is otherwise provided in this and other ordinances of the city, and subject to such rules, orders and regulations as the city council may from time to time adopt.

#### **To Lease Buildings Belonging to the City, Subject, Etc.**

SECTION 3. The said committee are authorized to lease any building belonging to the city, which is not otherwise appropriated, for any period not exceeding three years, and upon such terms and conditions as they may deem expedient, subject, however, to the approval of the mayor and aldermen; and in such case the lease shall be signed and executed by the city treasurer.

#### **Committee to Prepare Plans, Etc., of Buildings to Be Erected, Repaired, Etc.**

SECTION 4. Whenever any building for the use of the city shall be erected, altered, or repaired, the expense of which may exceed five hundred dollars, it shall be the duty of the committee that may have charge of the same, to prepare or cause to be prepared the requisite plans and specifications of the work to be done.

**To Publish Notice of Time and Place for Exhibition of Same.**

SECTION 5. The said committee shall give notice in the newspapers in which the ordinances of the city are published, of the time and place of the exhibition of such plans and specifications as may be necessary to enable contractors to make their estimate of the proposed work.

**Proposals for Work to Be Sealed — How Opened — Not to Be Disclosed Till Contract Is Made — Proviso.**

SECTION 6. No proposal shall be received by the said committee, from any person offering to contract for such work, unless the same is sealed, and no proposal shall be opened except in committee actually assembled, and the contents of no proposal shall be made known to any person not a member of the committee, until after a contract shall have been made, provided, always, that if any such proposals shall be offered by persons who, in the judgment of said committee, shall be incompetent to perform their contracts in a workmanlike manner, or irresponsible in respect to their means of faithfully executing the same, the said committee may in their discretion reject any such proposal, notwithstanding the same be at a lower rate than other proposals offered for the same work.

**Contract Exceeding Five Hundred Dollars to Be in Writing and Signed by Mayor—Not to Be Altered unless, Etc.**

SECTION 7. In all cases where the amount of any contract shall exceed five hundred dollars, the contract shall be in writing, and signed by the mayor on the part of the city, and after being signed by the parties, no such contract shall be altered in any particular, unless a majority of the said committee shall assent thereto, in writing, under their respective signatures, indorsed on the said contract.

**Expenditures Not to Exceed Appropriations.**

SECTION 8. The amount of expenditures for the foregoing purposes, in any one year, shall never exceed the appropriations made by the city council for the same, and no expenditure exceeding two hundred dollars shall ever be made in the alteration or repair of any building, without an express vote of the city council authorizing the same.

**Purchases of Land for Erecting Buildings, to Be Made under Direction of Committee.**

SECTION 9. Whenever the city council shall order the purchase of land, for the purpose of erecting any building thereon, such purchase

shall be made under the direction of the said committee on public buildings.

**No Building, Etc., to Be Sold without Order of City Council.**

SECTION 10. No building, or land appurtenant thereto, shall be sold by any committee of the city council without an order from the city council authorizing such sale.

**Repairs, Etc., to Be Done under Committee on Public Buildings.**

SECTION 11. All repairs, alterations or enlargements of any of the public buildings belonging to the city, necessary or requiring to be made shall be done under the direction of the joint standing committee on public buildings, and no bill shall be allowed or paid by the city for any labor or materials used in repairs upon any building belonging to the city, unless the same shall have been approved by said committee.

**Chairs in Aisles Not Allowed.**

SECTION 12. No person having the charge or control of any building, hall or auditorium, as owner, lessee, manager, agent or otherwise, used as a place for public assembly, shall place or allow to be placed or remain in any aisle, passage way, stairway or entry way of such building, hall or auditorium, during a performance therein, any temporary seats or other obstructions for any purpose whatsoever.

**Penalty.**

SECTION 13. All persons violating the provisions of the preceding section shall be punished with a fine not exceeding one hundred dollars, to be recovered on complaint.

**Mayor to Have Charge of City Hall.**

SECTION 14. The general charge of the city hall shall be lodged with the mayor, who may allow the free use thereof for any peaceable assembly of citizens, on application being made in writing by seven legal voters.

**Lease from Cumberland County to City of Portland of City Building for Nine Hundred Ninety-Nine Years, from February 1, 1858.**

SECTION 15. Whereas, the City of Portland, in the State of Maine, and the County of Cumberland, in said State, by the court of county commissioners, have negotiated respecting the leasing to said city, of

the lot of land belonging to said county, situated on the northerly side of Congress street in said Portland, bounded by Myrtle street on the east, and the land of Nicholas Emery and others on the west, and by land of N. D. Appleton and others, on the north, together with the buildings now thereon. And the said county has agreed to grant, and the said city to accept, a lease of said lot and buildings, upon the terms, agreements, and conditions, hereinafter in this instrument set forth. And covenants whereas, the committee on public buildings, appointed by the city council of said city, were by said order of said council, passed January 29, 1858, duly authorized to close a contract with said county for a perpetual lease of the lot of land aforesaid, for the purpose of erecting thereon buildings for the use of said city. And whereas, said city has procured an architectural plan of such a building and improvements, as they wish and propose to erect and put upon said lot, subject, however, to such changes as may be finally proposed and agreed upon by and between said parties.

Now this indenture, made March 31, 1858, between the County of Cumberland aforesaid, on the one part and the City of Portland aforesaid, on the other part, witnesseth: That in consideration of the premises, and of the terms, covenants and conditions, hereinafter contained, to be paid, done and performed by said city; the said County of Cumberland doth hereby demise and lease to the City of Portland aforesaid, the lot of land above described belonging to said county, situated on the northerly side of Congress street in said Portland from Myrtle street westerly to Nicholas Emery's land, being one hundred and fifty-six feet more or less, on Congress street, and, extending northerly about two hundred and sixty-five feet to land of Appleton and others, together with all the buildings thereon, belonging to said county. To have and to hold the same, with all and singular, the estate, rights, privileges and appurtenances thereto belonging to the said city, for and during the full term of nine hundred and ninety-nine years from February 1, 1858, reserving thereupon, a yearly rent of one dollar a year, payable to said county on demand by them, at the end of each year and not otherwise. This lease is made and adopted upon the following further terms, covenants and agreements, that is to say:

1. The said lessees are hereby authorized to remove any and all buildings now on the premises, and use the materials thereof, provided however, that the gaol, the keeper's house and appurtenant buildings now used for the accommodation of the gaol and keepers, are to remain unaltered until the new gaol and the keeper's apartments therein are

ready for occupation, and the prisoners and the keeper shall have removed thereto.

2. That said city shall furnish apartments and accommodations for the business of the county, either by altering and remodeling the present court house, or by erecting a new one; that is to say, said city in said new or altered buildings, shall provide and furnish to the approval of the county commissioners, a court room for the Supreme Court, a grand jury room, two rooms for the traverse juries, a fireproof library room and adjoining lobby and entrance to lobby, two rooms for the clerk of the courts, a room for the county commissioners' court, fireproof rooms for the records of the clerk of the courts, for the register of deeds and for those of the Probate Court, a court room for the Probate Court, and another with lobbies for the Municipal Court, a fireproof apartment or safe for the county treasurer; and offices for the county treasurer, county attorney and sheriff, with such additional room as may be necessary and all according to the standard in similar buildings of modern construction.

3. Said city shall, during the continuance of this lease, keep said buildings and the various rooms and apartments above described in good repair, and continue to furnish such conveniences and accommodations from time to time, as may be necessary and proper, for the use of said county, free of any charge, or expense to said county.

4. Said city shall not erect any other buildings upon said lot, but such as are indicated in the plan to be finally agreed upon and adopted, except to enlarge their accommodations for public use, by additions to said building described on said plan, without the written assent of the county commissioners for the time being, or of the persons who may then be acting as the agents or representatives of said county.

5. The said lessees are hereby authorized to sell or otherwise dispose of, alter, amend and repair, or take down and remove, any of the buildings on said lot, subject to the reservation in Article 4 and to use the materials thereof in such new buildings as they may erect, but if they take down the present court house, or in altering the same, shall disturb or prevent the proper occupation of that building by the courts and officers now using it, they shall furnish free of expense to the county such accommodation as may be suitable and necessary for the use of the county.

6. The said lessees hereby covenant, that they will well and truly perform and keep, all and singular, the covenants and agreements in this lease contained; and if at any time hereafter, during the continu-

ance of this lease, said lessees shall neglect to repair said court house on due notice and request by the commissioners or agents of said county, or shall fail to furnish such accommodations and conveniencies as this instrument prescribes and requires, said city shall forfeit to the said county, the sum of fifty thousand dollars, and such further sum as the said county may be subjected to in making the necessary repairs, or furnishing the accommodations and conveniences deemed necessary and proper.

7. And should, at any time hereafter, any question arise, as to the proper construction of this instrument, or of the terms, covenants and conditions thereof, such disagreement shall be referred to, and determined by three impartial, intelligent and disinterested men, one of whom shall be a judge of the Supreme Judicial Court of Massachusetts; and in case the parties cannot agree upon the other two, they shall be appointed by the person above designated, and the final award and determination of these arbitrators, to be made in writing to the parties, shall be final and conclusive upon them.

In testimony whereof, the said County of Cumberland by the county commissioners thereof, on the one part, and the committee on public buildings of the City of Portland, each being duly authorized and qualified therefor, have set their names respectively, and caused the corporate seals of said county and city to be affixed hereunto in duplicate.

(NOTE. This contract and lease is on file in the city treasurer's office.)

## **CHAPTER 83.**

# **PUBLIC RECORDS.**

### **Statutes.**

#### **City to Provide Safes and Vaults for Deposit of Records.**

SECTION 1. In cities and towns of more than thirteen hundred inhabitants, the municipal officers shall provide, at the expense of their respective cities and towns, fireproof safes or vaults of ample size for the reception and preservation of all completed books of record and registry belonging to such cities and towns; and upon the completion of each of such books of record and registry, it shall be, by the clerk of such city or town, deposited in such safe or vault and there kept at all times, except when it is required for use. (P. L., 1897, Chapter 201, Section 1.)

#### **City to Make to Supreme Judicial Court Return of Number and Nature of Books of Record.**

SECTION 2. The clerks of all cities and towns shall, in the month of December in each year, make a return to the clerks of the Supreme Judicial Courts in the several counties, showing the number and nature of such books of record and registry as are in their custody, and where they are kept and deposited; said returns shall also show where the books of the municipal officers and treasurer are kept and deposited. (Ib., Section 2.)

#### **Penalty for Neglect.**

SECTION 3. Any city or town which neglects to perform the duties prescribed by Section 1 of this Act shall forfeit for each month so neglecting, the sum of ten dollars, one-half to the complainant and one-half to the county in which such city or town is located. (Ib., Section 3.)

#### **Errors in Records, How Amended.**

SECTION 4. When omissions or errors exist in the records or tax lists of a town or school district, or in returns of warrants for meetings



thereof, they shall be amended, on oath, according to the fact, while or after he ceases to be in office, by the officer whose duty it was to make them correctly. If the original warrant is lost or destroyed, the return, or an amendment of it, may be made upon a copy thereof. (R. S., Chapter 3, Section 10.) 7 Me. 429, 12 Me. 490, 13 Me. 472, 17 Me. 447, 25 Me. 563, 26 Me. 179, 29 Me. 526, 34 Me. 578, 48 Me. 356, 49 Me. 351, 51 Me. 30, 55 Me. 195, 56 Me. 392, 395, 65 Me. 25, 352, 66 Me. 587, 85 Me. 301, 89 Me. 10, 320.

**Persons Who Have Held Public Office Shall Deliver Public Property to Their Successors — Penalty.**

SECTION 5. When any person, having held any public office in this State, and having in his possession or under his control, any moneys, books of account, records, accounts, vouchers, documents or other property, or effects pertaining or belonging to said office, or to the State, or to any county or municipality in the State, and whose term of office has expired, and whose successor in said office has been elected or appointed and qualified, after a written demand for the same, wilfully refuses to deliver such moneys, books of account, records, accounts, vouchers, documents or other property or effects aforesaid to such successor in said office, he shall be punished by imprisonment not exceeding five years, and by fine not exceeding five thousand dollars. (R. S., Chapter 117, Section 8.)

## CHAPTER 84.

# PUBLIC WORKS.

### Statute.

**Mayor May Appoint a Commissioner of Public Works, in City of Portland — Qualification — Term — Vacancy, How Filled — Appointment of Secretary for Commissioner — Shall Have Charge of Books and Accounts — Term — Vacancy, How Filled.**

SECTION 1. The mayor of the City of Portland is hereby authorized and empowered to appoint on the second Monday of March, in the year of our Lord 1895, or as soon thereafter as may be, subject to the approval of the board of aldermen, a commissioner of public works who shall be a civil engineer and who shall hold office for three years at the first appointment under this Act, and until his successor is qualified; each succeeding appointment thereafter shall be for the term of three years. He shall receive such salary as the city council may determine. In case any vacancy should occur, it may be filled in the same manner for the unexpired term. He may be removed by the mayor for cause, subject to the approval of the board of aldermen.

The mayor of the City of Portland is hereby authorized and empowered to appoint on the second Monday of March, in the year of our Lord 1895, or as soon thereafter as may be, subject to the approval of the board of aldermen, a competent person to be designated as secretary for the commissioner of public works and also for the committee of public works named in Section 5 of this Act who shall have charge of all the records and books of registration of said committee, and of all accounts of said commissioner, who shall hold office for two years at the first appointment under this Act and until his successor is qualified, and thereafter he shall be appointed to serve for the term of three years and until his successor is qualified. In case any vacancy should occur, the unexpired term shall be filled by appointment in the same manner. He shall receive such salary as the city council may determine. He may be removed by the mayor for cause, subject to the approval of the

board of aldermen. He shall perform such duties as the commissioner of public works may, from time to time, determine. (Special Laws of 1895, Chapter 146, Section 1.)

**Commissioner nor Secretary Shall Be Interested in Any Contracts.**

SECTION 2. Neither the commissioner of public works, the secretary nor any officer employed by said commissioner shall be interested, either directly or indirectly, in any contract entered into by either or both of them in their official capacity or in behalf of the City of Portland, and contracts made in violation thereof are void. (Ib., Section 2.)

**Duties and Powers of Commissioner.**

SECTION 3. The said commissioner shall be vested with all the authority now exercised by and shall perform all duties now incumbent upon the city civil engineer of said City of Portland, and the street commissioner, which office is hereby abolished, and shall have charge of the maintenance and repair according to law of all streets and public ways in said City of Portland, including sidewalks and bridges, and of all public sewers and drains, and of the construction, maintenance and repair of all culverts and catch basins belonging to the city; shall have charge of the construction of new streets and bridges when laid out and ordered to be constructed by order of the city council, shall have charge of the construction of new sewers when the same are laid out according to law; shall take general care of all property belonging to the city which pertains to the duties of said commissioner of public works. Said commissioner shall be authorized to purchase everything necessary and convenient to conduct the business of his department; shall employ all assistants, foremen and clerks, and make all contracts for the supply of labor, subject to the provisions of Section 5 of this Act, and material necessary to carry on the works in charge of the said commissioner. (Ib., Section 3.)

**Appropriation to Carry on Work.**

SECTION 4. The city council shall annually appropriate such sums of money as they may deem necessary and sufficient to carry on the work of said commissioner. Such appropriation shall be drawn from the city treasury in such manner as the city council may from time to time by ordinance direct. (Ib., Section 4.)

**Appointment of Committee on Public Works — Shall Audit Accounts of Commissioner.**

SECTION 5. Annually, at the organization of the city council of said city, or as soon thereafter as may be, the mayor shall appoint two members of the board of aldermen, both of whom shall not be of the same political party, if more than one party is represented in said board, and the president of the common council shall appoint two members of the board of common council, not more than one of whom shall be of the same political party, if more than one party is represented in said board, who shall with the mayor, *ex officio*, who shall be chairman of said committee, constitute a committee to be called the committee on public works. Said committee shall at the end of every month audit all accounts of said commissioner, and make monthly reports to the city council of the progress of the work and of the accounts audited. Said committee shall be a board of registration for the employment of all labor under such rules and orders as the city council may from time to time determine. (Ib., Section 5.)

**Commissioner Shall Keep Record and Report Quarterly.**

SECTION 6. The commissioner shall keep full record of all his doings, which record shall at all times be open to the inspection of the city council, and shall make report to said city council quarterly or as much oftener as ordered, of the work completed or in process of completion, and said city council shall have power to inquire into the action of said commissioner at all times and to require of him a full explanation of his doings. (Ib., Section 6.)

**City Council May Delegate Additional Power to Commissioner.**

SECTION 7. The city council may, from time to time, subject to the provisions of this Act, and in accordance with the general laws, delegate to said commissioner such additional administrative powers and duties as the city council may by ordinance determine. (Ib., Section 7.)

**Inconsistent Acts, Repealed.**

SECTION 8. All Acts and parts of Acts inconsistent herewith are hereby repealed, and all provisions of the charters and all ordinances of said City of Portland inconsistent herewith, are hereby repealed, and declared inoperative and without effect. (Ib., Section 8.)

**Original Location of Streets to Be Ascertained by City Engineer, How Often — Persons May Object.**

SECTION 9. The original location of all streets and ways in said city shall, once in ten years, or oftener, be ascertained by the city engineer, under the direction of the city council, as accurately as practicable — the location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall give twenty days' notice, by advertisement in two or more public papers in the city, of the time and place at which it will act upon said report. Any person may appear and object to the report; and after a full hearing of all parties interested, the committee may accept, alter or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines of such streets and ways in said city, according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as, and for, the original boundaries; and a record of the location thereof to be made upon the city records; and a copy of the last records of such proceedings respecting any street, with evidence of the location of the boundaries therein designated, shall in all judicial proceedings be *prima facie* evidence of the place of the original location of said street. (City Charter, Section 1.)

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**ORDINANCES.****Duties of Commissioner of Public Works — Monuments, Penalty for Removing.**

SECTION 1. The commissioner of public works, under the direction and control of the mayor and aldermen, shall have charge of all the plans of streets belonging to the city. He shall make all surveys, admeasurements, and levels of streets in the city, and plans and profiles of the same, when thereto required as hereinafter mentioned, and perform such other surveying and engineering services as may be required by the mayor and aldermen or any committee of the city council. He shall, when required, take the angles contained between different street lines, and make a record of the same, as the true lines of the street, and these angles shall all have reference to a given base line. He shall cause stone monuments to be placed at the intersection of lines parallel to and three feet distant from the lines of the street, at the

angle as well as at the point of intersection and in such manner that the center of the bolt shall be placed at the point of intersection. Such monuments shall be not less than five feet in length, and shall have in the center of the top thereof a copper bolt of one-half inch in diameter, and four inches deep. The tops of the monuments, when practicable, shall be set to the grade of the sidewalks. All monuments so erected shall be duly recorded, and no person shall remove or cause to be removed, any such monuments, without the consent in writing of the mayor and aldermen first obtained, under a penalty of twenty-five dollars for each offense.

### **Account of Expense.**

SECTION 2. The commissioner of public works shall keep an accurate account of the expense of constructing and completing each public drain or common sewer hereafter built, and within thirty days after the completion of the same, he shall furnish to the mayor and aldermen a statement of such expense, together with the location, and a profile, description of such drain or sewer; accompanied with a plan of all the lots or parcels of land benefited thereby, which plan shall give the size and number, or other sufficient description of said lots, together with the name of the owner or owners, if known.

### **Plans of Sewers.**

SECTION 3. The commissioner of public works whenever any common sewer is ordered to be built or repaired, shall ascertain its depth, breadth, mode of construction and general direction; with the dimensions of each lot of land benefited thereby, and a list of the owners of the same; and take the plan thereof, and insert the same with all those particulars in a book kept for that purpose; and shall ascertain and insert on such plan all entries made into such sewer.

### **Mean Tide Elevation.**

SECTION 4. Mean tide elevation (as obtained by the coast survey), shall be adopted as a base line, from which all levels taken by the commissioner of public works shall be measured, and to which all grades of streets, drains and sewers shall have reference, and points shall be established in different parts of the city from which the grades can at once be accurately obtained.

**Description of Streets, Drains, Etc.**

SECTION 5. Said commissioner shall record in a book, to be kept for that purpose, marked "street angles and distances," an accurate description of the angles, the points of beginning and ending of each street line, and the distances between said points. He shall also record in another book, marked "grades of streets, sewers, drains, etc.," an accurate description of all the grades of the streets, sewers, drains, etc., which books of record shall be certified by him, and be deposited among other city records.

**Duties of Commissioner — Shall Not Change the Grade of Streets, without, Etc. — To Make Contracts — To Have Charge of Teams, Etc.**

SECTION 6. It shall be the duty of the commissioner of public works to keep all streets within the city safe and convenient for travelers, to superintend the general state of the streets, sidewalks, lanes, alleys, public walks and squares of the city, to attend to the widening, alteration and repairs of the same; but he shall not be authorized to change the grade of any street, or make any permanent repairs thereon, without having first obtained therefor the sanction of the city council. He shall make all contracts for the supply of labor and materials for the same, take general care of the carts and teams owned by the city, and make all necessary arrangements for cleaning the streets, disposing of manure, and removing house dirt.

**Powers of Street Commissioners Given to Commissioner of Public Works — To Pay Damages Sustained in Consequence of Neglect of Duty.**

SECTION 7. All the powers given to, and all the duties required from, the street commissioners of the Town of Portland, as defined and declared by an Act of the legislature, passed February 19, 1831, are in like manner given to and required from the commissioner of public works, and any damages or expenses which the city may legally sustain in consequence of any neglect of duty on his part shall be paid by him.

(NOTE. The board of street commissioners "shall have all the rights and powers, be subject to all the liabilities and perform all the duties which surveyors of highways by law have, are subject to, and are bound to perform." Special Laws of 1831, Chapter 135.)

**Commissioner Shall Be Acquainted with Lines, Etc., of Streets — To Remove Obstructions.**

SECTION 8. The commissioner of public works shall make himself acquainted with the lines and bounds of streets, and remove any fences or other obstructions in the lanes, alleys and squares, and he shall perform generally such duties relative to the same as the mayor and aldermen or city council may require.

**Commissioner Shall Discharge All Bills Once a Month — To Render Account to City Council — To Keep Account of Receipts and Expenditures — To Present Annual Account.**

SECTION 9. The commissioner of public works shall as often as once in every month, discharge all bills by him contracted as commissioner, by funds to be supplied to him from the money received and appropriated for that purpose, and shall render to the city council a regular and complete account of the expenditures by him incurred, which account shall be audited monthly by the committee of public works, and he shall also keep an accurate account of all his receipts and expenditures, and present the same to the committee of accounts for their examination and approbation, annually, that the same may be laid before the city council.

**Line and Grade of Street to Be Given.**

SECTION 10. No person shall erect or alter, or excavate for the purpose of erecting or altering any wall or other structure, any part of which is, or is to be placed within ten feet of a public street, unless such person shall have first ascertained from the commissioner of public works the proper line and grade of said street; and it shall be the duty of the commissioner of public works, when so requested, to issue a certificate thereof. Said commissioner shall keep a record of all certificates so issued.

**Sidewalks May Be Accepted by City, When.**

SECTION 11. No sidewalk in any public square, place, street, lane or alley shall be accepted by the city council unless the height and width of such sidewalk shall have been previously established by the city council, and unless such sidewalk shall be put in good and perfect repair by the abutters and by them relinquished in writing to the city.



**City to Maintain Sidewalks Relinquished — Proviso.**

SECTION 12. After such relinquishment and acceptance, such sidewalks shall be maintained at the expense of the city, provided that when any sidewalk shall require repair, in consequence of any defect in the cellar door, curb, step or steps, cellar window, coal hole, cellar wall, or from any other cause, within the control of the owner or occupant of the estate to which such sidewalks adjoin, then and in that case such repairs shall be made at the expense of the owner or occupant.

**Bricks and Sand to Be Furnished to Lay Sidewalks — To Be Laid under the Direction of Street Commissioner — Specifications.**

SECTION 13. The commissioner of public works is authorized, whenever approved of by the committee on public works, to furnish at the expense of the city, good bricks and sand at the rate of five and one-half bricks for every superficial square foot of sidewalk, to any owner or occupant of any estate, adjoining which a sidewalk is necessary; and in cases where bricks are thus furnished, the sidewalk shall be laid down under the direction of said commissioner, and in all cases the person to whom the bricks are thus furnished shall pay the expense of setting the curbstone and for laying the bricks, and shall furnish such curbstone as shall be approved by said commissioner, subject in all cases to the following specifications:

Each and every stone to be of first rate quality of granite, and to be at least six inches wide on top, not less than six feet long, and of uniform depth, not less than eighteen inches, and to be straight lined, without wind, and free from bunches or depressions; to be peen-hammered on top, and three inches down on the back; the front to be pointed down not less than twelve inches, and the ends squared and jointed the whole depth of the stone.

**When City Council Require Sidewalks to Be Paved.**

SECTION 14. Whenever the city council may require the sidewalk or footway in front of any lot of ground, fronting on any street or way, in the City of Portland, to be paved, it shall be the duty of the commissioner of public works to notify the owner or tenant of such lot, in writing, of such requirement. And if the owner of such lot shall refuse, or neglect to pave the same as aforesaid, to the satisfaction and approval of the committee on public works, for the space of twenty

days after notice as aforesaid, it shall be the duty of said commissioner to pave such sidewalk or footway in such manner as said committee may direct.

### **City Assume One-Half the Expense.**

SECTION 15. The city council shall assume one-half part of the cost or expense of paving the sidewalks or footways of the streets of said city, as provided for in the preceding section, said cost or expense to be estimated and determined by the committee on public works; and the city will cause said proportion of the cost or expense of said sidewalk or footway to be paid in money or materials, as the committee on public works shall determine and elect.

### **Names of Streets to Be Recorded — Sidewalks and Description to Be Entered.**

SECTION 16. The city clerk shall keep a book in which the names of the streets shall be alphabetically arranged, and in which all the sidewalks which now are, or may hereafter be accepted as aforesaid, shall be entered with the date of such acceptance, the length and width of each sidewalk, and the names of the owner or owners of the adjoining estates.

### **Alteration in Sidewalks — Post and Trees Not to Be Set without Consent, Etc.**

SECTION 17. No person shall make any alteration in any sidewalk, or set any posts or trees on any of the sidewalks or in any part of the street, without the consent of the city council, or some person by them authorized, under a penalty of not less than five nor more than twenty dollars for each offence. (City Charter, Section 9, Page 47.)

### **Manure Not to Be Taken from Streets without Permission.**

SECTION 18. No person shall take or carry away any street dirt or manure, collected from any street or public place in the city, without permission of the commissioner of public works first obtained, under a penalty of not less than three nor more than ten dollars for each offence.

## **SPECIAL REGULATIONS IN RELATION TO THE EMPLOYMENT OF LABOR.**

(See Page 581, Section 5.)

### **Application for Registration — Preference Given Persons Who Have Served in Wars.**

SECTION 1. Men who seek employment as laborers shall apply for registration at the office of the committee of public works, at such time as may be designated by the said committee. When the applicants for work as common laborers, or as skilled laborers or specialists, are, in the opinion of the committee of public works, sufficient to meet all probable demands for a period of six months or more, registration of the class for which the supply is sufficient shall cease, except in the case of persons who have served in the army or navy of the United States in time of war, and received an honorable discharge therefrom, and who produce the requisite certificate as to character and capacity.

### **Applicant Must Be Voter — To Produce Recommendation.**

SECTION 2. Each applicant shall be a legal voter in the city, and must produce a certificate, signed by two reputable citizens of his city, of his capacity for labor and his habits as to industry and sobriety; provided, however, that in the case of a person honorably discharged from the service of the city, a certificate by the officer under whom he served, of his capacity and good conduct, may be accepted, in absence of evidence to the contrary, as sufficient. When the applicant desires to be registered for any other service than that of a common laborer, he will be required to produce a certificate, from some competent person or persons, of his ability to do the special kind of work for which he alleges capacity, and for which he desires to be certified.

### **Applicant to State His Name, Residence, Age, Etc.**

SECTION 3. The secretary shall require each applicant to state, under oath, his name, residence, citizenship, age, and number of persons depending upon him for support; his services, if any, in the army or navy in time of war; his present employment and past occupation; and such other facts as the committee of public works may deem necessary to show his capacity for labor, and his habits as to industry and sobriety.

**Secretary of Board to Append Certain Minutes to Statement.**

SECTION 4. The secretary shall append to each statement a brief personal description of the applicant, and any notes that may serve to show his capacity for the service sought. Where the applicant appears to possess very superior physical qualifications, the fact will be noticed. The certificates produced by each applicant shall be attached to his statement, and placed in an envelope bearing his name and number.

**Character and Capacity of Applicant May Be Investigated.**

SECTION 5. Before entering the name of any applicant on the register, such further inquiry may be made in regard to his character and capacity as the committee of public works may deem practicable or expedient. When it shall appear from the evidence presented that an applicant is capable and of temperate and industrious habits, the clerk shall place his name on the register.

**When Applicant Is Disqualified His Name to Be Withheld.**

SECTION 6. In case an applicant, who has made a sworn statement as hereinbefore provided, is found to be unfit or in any way disqualified to perform the service which he seeks, his name shall not be entered on the register, and the reason therefor shall be indorsed on the applicant's statement.

**Requisition, How Made.**

SECTION 7. When the services of laborers are required in any department to which the rules apply, the head of the department, or other officer thereto duly authorized, shall make a requisition upon the registration office for the number of laborers wanted, specifying the kind of service for which they are wanted. Upon receipt of such requisition, the secretary, under the direction of the committee of public works, shall send to the officer making the requisition the number of names called for, if the register contains so many, stating the following particulars in regard to each, namely: registration number, name, residence, citizenship, age, number in family, service in army or navy in the time of war, kind of labor for which he alleges capacity, references, and such other information as the committee of public works may direct.

**In Requisitions Preference Given Certain Classes.**

SECTION 8. In filling requisitions for laborers preference will be given, other things being equal, to those on the register who have had experience in city work, those who have served in the army or navy in time of war, and those having families depending upon them for support. When the service calls for men possessing superior physical qualifications, the officer making the requisition will so state; and the selection will, so far as practicable, be made from those marked at the time of registration as possessing such qualifications.

**Heads of Department to Make Return to Registration Office.**

SECTION 9. When the head of the department or other officer has selected and employed the persons named on said list, he shall forthwith return to the registration office a list of the persons so selected, stating the kind of work for which they have been employed. In case any of the persons certified fail to respond to the call of the head of the department or other officer, or decline the employment offered, or withdraw from the service without good cause, the registered number of such persons shall be returned to the registration office with a statement of the facts; and the names of such persons shall be taken from the register, unless a satisfactory explanation of the failure or refusal to work is given.

**When Laborer Is Discharged, Certificate of Fact to Be Sent to Committee of Public Works.**

SECTION 10. When a laborer in any of the departments coming within the rules is discharged or dropped from the pay rolls, a certificate of the fact shall be sent to the committee of public works and registration office on a form provided therefor, stating the name of the person, his registration number, the date of his employment, the kind of work on which he was employed, the date of his discharge, the cause, and whether his conduct and work have been satisfactory.

**Discharged Person May Apply for New Registration.**

SECTION 11. If the person so discharged or dropped desires to have his name restored to the register, he can apply at the registration office; and, if it appears that his conduct and work have been satisfactory, and that he is a man of good habits and able-bodied, it will be done.

**Certain Discharged Persons Not Eligible for New Registration.**

SECTION 12. When a person is discharged from the labor service for loitering, incompetence, unsatisfactory work, or any equivalent cause, unless the charge is disproved, he shall not be eligible for registration again for a period of at least one month from the date of such discharge. At the end of that time he can apply for registration on the same basis as other citizens; and in case he is registered, he shall not be eligible to certification to the department from which he was discharged except with the written consent of the head of that department. When a person is discharged from said service for intoxication, and the charge is not disproved, he shall not be eligible for registration for a period of at least one month from the date of such discharge, and upon second offence, two months; and his registration then will be subject to the conditions hereinbefore prescribed for men discharged for incompetency, etc. In case a person is discharged a third time for any of the causes named, he shall not be eligible for registration again, except by special vote of the committee of public works.

## **CHAPTER 85.**

# **RAILROADS.**

### **Statutes.**

## **STEAM RAILROADS.**

### **PORTLAND AND OGDENSBURG RAILROAD.**

#### **Act Authorizing Further Aid in Constructing the Portland and Ogdensburg Railroad.**

SECTION 1. The City of Portland is hereby authorized to loan its credit to the Portland and Ogdensburg Railroad Company, in aid of the construction of their railroad, subject to the following terms and conditions. (Special Laws of 1872, Chapter 166.)

(NOTE. See also charters and amendatory laws; Private Laws, 1867, Chapter 252; 1868, Chapter 591; 1871, Chapter 611; 1872, Chapter 167; 1873, Chapter 336; 1875, Chapter 1, 146; 1878, Chapter 14; 1885, Chapter 507.)

#### **Act, When to Take Effect.**

SECTION 2. This Act shall not take effect until it be accepted by the directors of said railroad company, and by the vote of the inhabitants of said city, voting in ward meetings, duly called according to law; and at least two-thirds of the votes cast at such ward meetings shall be necessary for the acceptance of the Act. The returns of such ward meetings shall be made to the aldermen of the city, and by them counted and declared, and the city clerk shall make a record thereof.

#### **Scrip May Be Issued.**

SECTION 3. Upon the acceptance of the Act as aforesaid, the city treasurer shall make and issue from time to time, for the purpose contemplated in this Act, the scrip of said city in convenient and suitable sums, payable to the holder thereof on a term of time not less than thirty nor more than forty years, with coupons for interest at six per cent. attached, payable semi-annually or yearly. The whole amount of

said scrip shall not exceed twenty-five hundred thousand dollars, and the same shall be delivered by the city treasurer to the directors of said railroad company, subject to the several provisions of this Act; the proceeds of the same shall be applied by the directors of the company exclusively to the construction and necessary equipment of the Portland and Ogdensburg railroad.

#### **Bonds of Company to Secure Payment of Scrip and Coupons.**

SECTION 4. Before the delivery of any portion of the scrip aforesaid, the directors of the railroad company shall execute and deliver to the city treasurer, for the city, the bond of the company, in a suitable penal sum, conditioned that the company will duly pay the interest and the principal of said scrip, and will hold the city harmless and free from all expenditure, damage or loss on account of the issue and delivery of the same.

#### **Mortgage of Road to City to Secure Payment of Bonds.**

SECTION 5. As a further security for the issue and delivery of said scrip, the directors of the company shall also deliver to the city treasurer the mortgage bonds of said company, issued and bearing date of November 1, 1871, and secured by a deed of trust and mortgage of said railroad, and the franchise and property of the company, of the same date heretofore executed and delivered by said company to trustees, for the benefit of the holders of the mortgage bonds aforesaid. The amount of said mortgage bonds so delivered to the city treasurer shall be equal to the amount of scrip issued and delivered under this Act, and the same shall be held by the city treasurer for the time being as collateral security to the obligation and bond given by the company as aforesaid, to hold and save the city harmless on account of the issue and delivery of said scrip. Upon the payment by the company of the interest which shall from time to time accrue upon said scrip, the city treasurer shall cancel and surrender to the company an amount of the interest warrants attached to said mortgage bonds, equal to, and corresponding as nearly as may be in date, to the amount of interest so paid on said scrip.

#### **Bonds Unredeemed at Maturity, Trustee Authorized to Transfer Road to City of Portland.**

SECTION 6. At the maturity of the mortgage bonds herein provided to be delivered as collateral security, and after the payment of all the other mortgage bonds issued under said deed of trust and mortgage, if



any portion of the scrip hereby authorized to be issued shall be unredeemed and outstanding, the trustees, for the time being, under said deed of trust and mortgage, shall be authorized to release and assign to the City of Portland all the title and interest which they may then have in the estate, property, and franchise of the company by virtue of said deed, and of any other conveyance made in pursuance of the covenants therein contained, which conveyance shall be a discharge of said trustees from all trusts created and declared in said deed, and the city shall by such conveyance, take and hold the said estate, property, and franchise as in mortgage, for the security and indemnity of the city, on account of the issue and delivery of its scrip as herein authorized, until the final redemption and reimbursement of said scrip, and the interest accruing thereon.

**Directors to Transfer to City of Portland Shares Equal in Amount to Scrip Issued by City — Shares to Be Held as Collateral Security.**

SECTION 7. The directors shall also transfer to the city upon the delivery of any portion of the scrip herein authorized, an equal amount in the shares of the company, until the whole number of shares authorized under the charter of said company shall be issued, to be held as collateral security for the bond of the company required to be given in such case, and the shares so held as collateral shall be credited on the stock books of the company as fully paid up, and no assessment shall ever be required thereon, nor shall any dividends be paid on the same, nor any right of voting or acting at the meetings of the company be claimed or exercised by reason of said shares, so long as the same shall be held as collateral as aforesaid.

**Sinking Fund — Commissioners to Be Appointed.**

SECTION 8. For the purpose of providing for the reimbursement of the principal of the scrip, authorized to be issued by this Act, there shall be established a sinking fund, and two commissioners shall be appointed to manage the same, who shall be appointed by the mayor and aldermen of the city, and in case of vacancy in the place of either, the same shall be supplied by the mayor and aldermen. Both of said commissioners shall be appointed and qualified before the delivery, to the directors, of any of the scrip. The commissioners shall severally be sworn to the faithful discharge of the duties enjoined upon them by this Act, in presence of the city clerk, who shall make a certificate and

record thereof as in the case of the qualification of city officers; each commissioner shall give a bond to the city with satisfactory sureties, in the penal sum of twenty thousand dollars, conditioned for the faithful discharge of his duty as commissioner. They shall receive such compensation as may be established by the directors, which shall be paid to them by the company, and shall not be diminished during their continuance in office,

### **One Per Cent. of Scrip to Be Paid in Five Years from Delivery.**

SECTION 9. The said company, at the expiration of five years from the first delivery of any of the scrip authorized as aforesaid to be delivered, shall pay to the city treasurer one per cent. of the whole amount of said scrip, which payment shall be by the city treasurer placed to the credit of the commissioners of the sinking fund, and shall constitute a part of the said fund; and thereafter the said company shall also annually in the month of September, pay to the city treasurer from the income of the road, one per cent. of the whole amount of said scrip then outstanding, which annual payments shall be successively placed to the credit of the commissioners of the sinking fund, and shall constitute a part of said fund.

### **Commissioners, Duties of.**

SECTION 10. The commissioners shall have the care and management of the moneys and securities at any time belonging to said fund; but the moneys invested and the securities shall be in custody of the city treasurer, who shall be, by virtue of his office, treasurer of the sinking fund, and shall be responsible on official bond to the city for the safe keeping of the moneys and securities of the fund; he shall pay out and deliver any of said moneys and securities only upon the warrant of the commissioners.

### **Moneys May Be Invested, Etc.**

SECTION 11. The commissioners shall from time to time, at their discretion, invest the moneys on hand securely, so that they shall be productive, and the same may be loaned on mortgage of real estate, or to any county, or upon pledge of the securities of any county in this State, or invested in the stock of this State, or of the United States, or in the bonds of any railroad company in New England whose road is completed, and whose capital has been wholly paid in. Any portion

of the fund may be invested in the city scrip authorized by this Act, and such scrip shall not thereby be extinguished, but shall be held by the commissioners, like their other investments, for the purposes of the fund. An amount not exceeding ten per cent. of the fund may be loaned on pledge of the stock of any bank or of any stock insurance company in the State, and the commissioners may, from time to time, sell and transfer any of said securities.

### **Sinking Fund to Be Kept for Redemption of Scrip.**

SECTION 12. The sinking fund and all the sums which shall be added thereto by accumulation, upon the investment thereof, shall be reserved and kept inviolate, for the redemption and reimbursement of the principal of said scrip at the maturity thereof, and shall be applied thereto by the commissioners.

### **Stock Held by the City May Be Sold or Transferred — Scrip Purchased from City to Be Cancelled — Scrip Not to Be Redeemed before Maturity.**

SECTION 13. Any of the shares in the stock of the railroad company, held by the city as collateral, may be sold and transferred by direction of the commissioners of the sinking fund, with the consent of the directors of the railroad company, whenever an exchange thereof can be advantageously made for any of the city scrip, authorized by this Act, or whenever the said scrip can be advantageously purchased with the proceeds of any such sale of such collateral shares. And the scrip so purchased, or taken in exchange, shall be thereupon cancelled and extinguished, and the amount thereof shall be indorsed on the respective bonds of the railroad company given on the issue of and delivery of such scrip. But no part of the sinking fund, or of its accumulations, shall be applied at any time or in any manner to the redemption and extinguishment of the scrip before maturity thereof.

### **Commissioners to Keep Record of All Proceedings and Investments — Records and Accounts to Be Inspected.**

SECTION 14. The commissioners shall keep a true record of all their proceedings, and an account of all sums paid into the fund, and of the investments made of the same, and shall annually, in the month of July, report to the mayor and aldermen and to the directors of the railroad company, their proceedings for the first year, the amount and condition of the fund, and the income of the several parts thereof.

And their records and the accounts of the fund, and the securities belonging thereto, shall at all times be open to inspection by such committee as may be appointed for that purpose by the mayor and aldermen, or by the directors of the company.

**Commissioners May Be Removed on Complaint of Mayor and Aldermen — Vacancy, How Supplied.**

SECTION 15. To secure the faithful discharge of the several trusts confided to the said commissioners under this Act, the Supreme Judicial Court is hereby empowered, upon the complaint of the mayor and aldermen, or of the directors of the railroad company against the said commissioners, or either of them, concerning any of said trusts and duties, by summary process according to the course of proceedings in equity, to hear and adjudge upon the matter of such complaint, and to issue thereon any suitable writ or process, and make any proper decree to compel the appropriate discharge and performance of such trusts and duties, and to remove the said commissioners, or either of them; and in case of such removal the vacancy shall be immediately supplied, as provided in Section 10 of this Act.

**If Sinking Fund Exceed Amount of Unredeemed Scrip, Excess to Be Paid to Railroad Company.**

SECTION 16. If the said sinking fund with its accumulation shall at any time exceed the amount of the scrip unredeemed and outstanding, all such excess shall be annually paid over to the railroad company, and if any surplus of the fund shall remain after the redemption and reimbursement of all the scrip, such surplus shall be paid over to the company.

**Scrip, When to Be Issued to Railroad Company.**

SECTION 17. The treasurer of the City of Portland shall, on request of the directors of the said railroad company, after the acceptance of this Act by the inhabitants of this city and the execution and delivery of the bond of said company before mentioned, issue and deliver to the treasurer of said railroad company, toward said loan, bonds of said City of Portland to the amount of fifty thousand dollars, and thereafter to issue and deliver to said treasurer of said company bonds of said City of Portland in sums of fifty thousand dollars as often as it shall appear by the report of the engineer of said railroad company, and to the satisfaction of the mayor and aldermen of said city, that work has been

done or materials furnished to the amount before granted on the extension of said railroad from North Conway to a connection with the western division at the Connecticut river, until the entire amount of the loan shall be furnished.

**Act to Take Effect in One Year After Acceptance by City.**

SECTION 18. This Act shall take effect and be in force from and after its approval by the governor so far as to authorize the directors of the company and the inhabitants of the city to act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose shall be called and holden within thirty days after request by the president and directors of said company to the mayor and aldermen therefor, and within one year after the approval of this Act, and if the Act shall be accepted as aforesaid, then after such acceptance and record thereof, all the parts of the Act shall take effect and be in force, and the citizens of Portland may vote twice upon the question of accepting this Act and no more.

**Portland and Rochester Railroad Authorized to Build a Branch to Connect with Grand Trunk Railway—Conditions—To Connect with Maine Central and Boston and Maine Railroads—Conditions.**

SECTION 19. The Portland and Rochester railroad is hereby authorized, subject to the written consent of the mayor and board of aldermen of the City of Portland, and to all statutes relating to Portland harbor, to extend or build a branch of its railroad from a point at or near Green street, in Portland or Deering, thence northeasterly across Back Cove, inside the marginal way in said Portland, to and crossing Washington street, thence easterly to a connection with the Grand Trunk railway, and subject to the same conditions to change the present location of any of its road within the above limits; also subject to the written consent of the mayor and aldermen of Portland, so far as said location shall be made in the City of Portland, and to all statutes relating to Portland harbor, as aforesaid, to extend its road or a branch thereof, commencing at a point in or near the mill pond, on the westerly side of Green street, thence westerly to and crossing Grove and St. John streets, thence southwesterly to a connection with the railroad of the Maine Central Railroad Company and Boston and Maine railroad, between Portland and Danforth streets, and to locate, construct and maintain and use each of the same; provided, that said

location, if made, shall be subject to the joint use by other railroad companies, in such manner and upon such terms as may be determined by the mayor and aldermen of Portland, subject to revision by the Supreme Judicial Court, as provided in Chapter 51, Section 120, of the Revised Statutes. (Special Laws of 1887, Chapter 71.)

**Portland and Rochester Railroad, Authorized to Extend Its Road — Proviso.**

SECTION 20. The Portland and Rochester railroad is hereby authorized, subject, so far as the location hereinafter named shall fall within the limits of the City of Portland, to the approval of the legal voters of said City of Portland, voting in the manner hereinafter provided, to extend its road, or a branch thereof, commencing at a point in Portland or Deering, in or near the mill pond on the westerly side of Green street; thence westerly to and crossing Grove and St. John streets; thence southwesterly to a connection with the railroad of the Maine Central Railroad Company, between Portland and Congress streets, and to locate, construct, maintain and use the same; provided, that said location, if made, shall be subject to the joint use by other railroad companies, in such manner and upon such terms as may be determined by the mayor and aldermen of Portland, subject to revision by the Supreme Judicial Court, as provided in Section 120, Chapter 51, of the Revised Statutes. (Special Laws of 1889, Chapter 352, Section 1)

**Question of Extension, to Be Submitted to People — Meetings, How Called — Question of Extension, How Determined — When Extension Shall Be Completed.**

SECTION 21. The qualified voters of said city shall be called upon to give in their votes upon the question of any extension which may be proposed by said Portland and Rochester railroad, or its officers, under the provisions of the preceding section, at the meetings in the several wards thereof, duly warned by the mayor and aldermen, to be held on the day of the municipal election, which shall be held not less than fourteen days next after said Portland and Rochester railroad, or its officers, shall file in writing with the clerk of said City of Portland, a full and complete description of any such intended extension, stating therein in definite terms the initial and terminal points of said location, and the courses and distances between said points by which said location shall be fixed and determined. Such question shall be determined in the following manner, that is to say, each voter in favor of such

proposed extension shall express such preference by a ballot bearing the word "yes;" and each voter opposed thereto by a ballot bearing the word "no;" all such ballots to be deposited in separate ballot boxes, in the manner provided by law for the submission of a constitutional amendment. And thereupon the same proceedings shall be had respecting the sorting, counting, declaring and recording the returns of said votes, as is provided by law at the election of the mayor of said city. And the board of mayor and aldermen shall, within three days after such meetings, meet together and compare the returns of the ward officers; and if it appears that a majority of all the votes given on the question of such proposed extension bear the word "yes," and are in favor thereof, the city clerk shall make a record of the fact, and thereupon, by force of such vote and record, said Portland and Rochester railroad shall be authorized to locate such extension, not to exceed four rods in width, in the manner set forth in the description filed as aforesaid, with the clerk of the City of Portland, and to construct, maintain and use the same upon terms and conditions approved from time to time by the mayor and aldermen of the City of Portland, provided said extension shall be completed within three years from the municipal election, at which said proposed location shall be approved by a vote of the citizens of said City of Portland. (Ib., Section 2.)

#### **Land Damages, How Estimated.**

SECTION 22. All damages for land taken shall be estimated and paid, and all other proceedings shall be conducted in accordance with the provisions of law. (Ib., Section 3.)

#### **Proceedings to Precede Filing of Location.**

SECTION 23. Proceedings under Sections 1 and 2 of this Act shall precede the filing of the location in the manner now required by law. (Ib., Section 4.)

#### **Boston and Maine Railroad, within City of Portland, and Maine Central Railroad in Bath, May Change, Etc.— Location of Stations and Grounds—Shall Not Cross Public Way without Consent of Municipal Officers.**

SECTION 24. The Boston and Maine railroad may from time to time, within the City of Portland, and the Maine Central Railroad Company, within the City of Bath, with the consent of the municipal officers thereof, respectively, after notice and a public hearing, enlarge,

rearrange, change locality of, or otherwise improve its freight or passenger stations and grounds connected with either, or its terminal facilities, including reaching any wharf or wharves therein, or may provide new or additional stations, grounds and facilities, as aforesaid; and may from time to time make new locations therefor, including new rights of way incidental thereto, subject nevertheless to all provisions of law, appurtenant to such matters, or relating to harbors; provided, that any location hereby authorized shall not cross any public way in either of said cities, without the consent of the municipal officers thereof, on such terms and conditions, if any, as may be expressed in such consent; and provided further, as to any lands to be taken for any purpose hereby authorized and which may not be acquired by purchase, the railroad corporation shall proceed, as authorized by Section 16 of Chapter 51 of the Revised Statutes, and any Acts amendatory thereof, or additional thereto. (Special Laws of 1889, Chapter 553.)

## STREET RAILROADS.

### PORTLAND AND FOREST AVENUE RAILROAD COMPANY.

**Corporators — Corporate Name — Construction — Location, How Determined — Authorized to Construct When Land Damages Have Been Settled, Etc. — Proviso — Vote or Votes of City or Town, Assent of Corporation Shall Be Filed with Clerks, Etc. — Powers, Etc. — Original Location, Term of — May Be Renewed — When to Be Renewed — Notice — If at Expiration of Terms, Use of Streets, Etc., Is Granted Any Other Corporation, Etc. — Said Corporation Shall Purchase, Etc. — Terms, How Determined — Appraisers, Duties of — Services of, How Paid — Connection of Similar Corporation — Compensation, How Determined.**

SECTION 1. Eliphalet Clark, John B. Coyle, John W. Adams, Newell A. Foster and Warren Sparrow, their associates and successors, are hereby constituted a corporation by the name of the Portland and Forest Avenue Railroad Company, with authority to construct, maintain and use a railroad to be operated by horse power, with convenient single or double tracks, from such point or points in the City of Portland, upon and over such streets therein, as shall from time to time be fixed and determined by the municipal officers of said City of Portland, and



assented to in writing by said corporation, to the boundary line between said city and the town of Westbrook, and thence upon and over such streets, town and county roads in said town of Westbrook as from time to time, may be fixed and determined by the municipal officers of said town, and assented to in writing by said corporation, to some point at or near the entrance to Evergreen Cemetery, and to such other point or points in said town of Westbrook, as may in like manner from time to time be fixed and determined by the municipal officers of said town, and assented to in writing by said corporation; said corporation shall also have authority to construct, maintain and use said railroad over and upon any lands where the land damages have been mutually settled by said corporation and the owners thereof; but said corporation shall make no erections within any of the tide waters of Back Cove without the written approval of the harbor commissioners; provided, however, that all tracks of said railroad shall be laid at such distances from the sidewalks of said City of Portland and Town of Westbrook, as the municipal officers thereof, respectively, shall in their order fixing the routes of said railroad determine to be for public safety and convenience. The written assent of said corporation to any vote or votes of the municipal officers of either said city or town, prescribing from time to time the routes of said railroad, shall be filed with the respective clerks of said city or town, and shall be taken and deemed to be the locations thereof. Said corporation shall have power from time to time, to fix such rates of compensation for transporting persons or property, as it may think expedient, and generally shall have all the powers and be subject to all the liabilities of corporations, as set forth in Chapter 46 of the Revised Statutes. Rails shall not be laid down in said city or town without the assent of the municipal officers thereof, respectively. The original location of the route when granted shall be for the term of twenty-five years. The same may be renewed from time to time for a term not exceeding fifty years at any one time, by said municipal officers, upon such terms as they may deem expedient. No such renewal shall be granted prior to two years before the expiration of the location then established. No location shall be granted or renewed, except upon reasonable prior notice to all parties interested. If at the expiration of any of said terms, the use of the streets, roads or highways, occupied by said company's railroad, is granted by the municipal officers of either said city or town, or both, to any other corporation or person, it shall be upon condition that such corporation or person shall purchase of said company all its property of every descrip-

tion in necessary use for the purposes of said railroad upon such terms as may be agreed upon by the parties, or determined by persons selected by them; and if they are unable to agree, the value of the same shall be determined by three disinterested persons, appointed by a judge of the Supreme Judicial Court, on application of either party, and hearing thereon. Said appraisers shall be sworn, give notice of the time and place of their meeting to examine and appraise said property, and shall make to each party a written award; and their services shall be paid in equal proportions by the parties. If the municipal officers of either said city or town, or both, determine, that at the expiration of any of said terms, the use of the streets, roads or highways occupied by said company's railroad, shall be granted to any person or corporation, for the purposes of a horse railroad, on the payment of any sum of money, yearly, or in any other manner, said company shall have the preference, and such use shall be granted or renewed to said company, provided it will pay as much therefor as any other corporation or person. Any similar corporation hereinafter incorporated which shall construct its road from Cape Elizabeth, or Westbrook, where the Portland and Forest Avenue Railroad Company have no track, may enter upon and connect with and use the track of the Portland and Forest Avenue Railroad Company for such rates of compensation as may be agreed upon, or in case of disagreement of the directors of the two companies, three disinterested persons shall be appointed by a judge of the Supreme Court, on application of either party, and a hearing thereon shall be had before said commission. Said commissioners shall be sworn, give notice of the time and place of their meeting to determine the matter in dispute, and shall make to each party a written final decision of the points submitted, and their services shall be paid in equal proportions by the parties. (Act, 1860, Chapter 457, as amended by Act, 1861, Chapter 91.)

### **Railroad, How to Be Used — City and Town May Make Regulations, Etc.**

SECTION 2. Said railroad shall be operated and used by said corporation with horse power only. The municipal officers of said City of Portland and of said town of Westbrook, respectively, shall have power at all times to make all such regulations, as to the rate of speed and removal of snow and ice from the streets, roads and highways by said company at its expense, and mode of use of the track of said railroad within said city or town, as the public convenience and safety require. (Ib., Section 2.)

**Corporation Shall Keep in Repair, Streets, Etc. — Liability.**

SECTION 3. Said corporation shall keep and maintain in repair, such portion of the streets, town or county roads as shall be occupied by the tracks of its railroad, and shall make all other repairs of said streets or roads, which in the opinion of the municipal officers of said city or town respectively, may be rendered necessary by the occupation of the same by said railroad, and if not repaired upon reasonable notice, such repairs may be made by said city or town respectively, at the expense of said corporation. And said corporation shall be liable for any loss or damage which any person may sustain by reason of any carelessness, neglect or misconduct of its agents or servants. (Ib., Section 3.)

**Obstructions in Use of Roads, Etc. — Penalty.**

SECTION 4. If any person shall wilfully and maliciously obstruct said corporation in the use of its road or tracks, or the passing of the cars or carriages of said corporation thereon, such person and all who shall aid and abet therein, shall be punished by a fine not exceeding two hundred dollars, or may be imprisoned in the county jail for a period not exceeding sixty days. (Ib., Section 4.)

**Capital Stock — Shares.**

SECTION 5. The capital stock of said corporation shall not exceed one hundred thousand dollars, to be divided into shares of one hundred dollars and no share shall be issued for less than the par value. (Ib., Section 5, as amended by Act, 1863.)

**May Hold Real and Personal Estate.**

SECTION 6. Said corporation shall have power to purchase and hold such real estate as may be necessary and convenient for the purposes and management of said railroad. (Ib., Section 6.)

**Railroad to Be Constructed, Etc., under Direction of City and Town — Alterations in Grade — Proviso — Crossings — Manner of, How Determined.**

SECTION 7. Said railroad shall be constructed and maintained in such form and manner, and with such rail, and upon such grade as the municipal officers of said City of Portland, and of said town of Westbrook, respectively, shall from time to time prescribe and direct; and whenever in the judgment of said corporation it shall be necessary to

alter the grade of any street, town or county road, occupied by its railroad, said alterations may be made at the sole expense of said corporation; provided, the same shall be assented to by the municipal officers of said city and town respectively. If the tracks of said company's railroad cross any other railroad of any kind, in either said city or town, and a dispute arises in any way in regard to the manner of crossing, said municipal officers of the town or city in which said proposed crossing is to be made, shall, upon hearing, decide and determine in writing in what manner the crossing shall be made, which shall be constructed accordingly. (Ib., Section 7.)

#### **Streets or Roads, in Relation to.**

SECTION 8. Nothing in this Act shall be construed to prevent the proper authorities of said city or town respectively from entering upon and taking up any of the streets, town or county roads occupied by said railroad, for any purpose for which they may now lawfully take up the same. (Ib., Section 8.)

#### **Act, Acceptance of, Etc.**

SECTION 9. This Act shall be void unless the same shall be accepted by said corporation, and ten per cent. of the capital stock thereof, be paid within five years from its passage. (Ib., Section 9.)

#### **Bonds, Issue of, Etc.**

SECTION 10. Said corporation is hereby authorized to issue bonds for the purpose of constructing its railroad, or for money which it may borrow for any purpose sanctioned by law; but the bonds so issued shall not exceed the amount of capital stock paid in by the stockholders. Said bonds may be issued in sums not less than one hundred dollars each, payable in not more than twenty years from their date, with interest at the rate of six per cent., payable semi-annually. (Ib., Section 10.)

#### **Approval of, Etc.**

SECTION 11. Such bonds shall be approved by a majority of the finance committee of said corporation, who shall certify that each of said bonds is properly issued and recorded upon the books of the corporation. All bonds and notes which shall be issued by said corporation shall be binding and collectible in law, notwithstanding such bonds or notes may be negotiated and sold by said corporation or its agents at less than their par value. (Ib., Section 11.)

**How Secured.**

SECTION 12. Said bonds shall be secured by a conveyance of the corporate company to three trustees, by a suitable instrument of mortgage to secure the payments of said bonds. (Ib., Section 12.)

**Sinking Fund — Trustees to Have Management of, Etc.**

SECTION 13. Said corporation shall pay semi-annually to said trustees a sum equal to one per cent. on the amount of said bonds, for the purpose of creating a sinking fund. Said trustees shall have the care and management of all the moneys, funds and securities belonging to said sinking fund, and they shall from time to time, at their discretion, invest the moneys on hand securely, and so that the same shall be productive; and the same may be invested in the bonds of said corporation, secured as aforesaid, or loaned on interest to any county, city or town, or any bank in this State, or the same may be loaned on interest, well secured by a first mortgage of real estate to an amount not exceeding one-half the value thereof, or by pledge of the scrip or stock of any of the New England States, or of any city, county or town as aforesaid, and the said fund, with the accruing interest, shall constitute a sinking fund for the payment and redemption of said bonds. (Ib., Section 13.)

**Certain Acts Made Applicable to Bonds, Etc.**

SECTION 14. The provisions of Chapter 51, Section 53, of the Revised Statutes, and of the nine sections of said chapter next following, are hereby made applicable to said bonds and to said mortgage made to secure the same, but said corporation shall not be subject to the other general provisions of law relating to railroads. (Ib., Section 14.)

ACT ADDITIONAL TO CHARTER OF PORTLAND AND FOREST AVENUE  
RAILROAD COMPANY.

**Railroad May Be Extended, Etc. — Rights, Privileges, Etc.**

SECTION 16. The Portland and Forest Avenue Railroad Company is hereby authorized to extend its railroad over either or both of the bridges which connect the City of Portland with Cape Elizabeth, and to construct and maintain the same in said town, with all the rights and privileges, and subject to all the conditions specified in the Act to which this is additional, upon condition that said corporation shall

locate and build so much of said road as lies within the limits of the Town of Cape Elizabeth, within two years after the passage of this Act. (Act, 1865, Chapter 509.)

#### **Assent of Directors Necessary for Certain Purposes.**

SECTION 17. Section 1 of said Act is hereby amended so as to require the assent of the directors only, where that of the corporation is required. (Ib., Section 2, as amended by Act, 1866.)

#### **Capital Stock Increased to Three Hundred Thousand Dollars.**

SECTION 18. The capital stock of said corporation is hereby increased to the sum of three hundred thousand dollars. (Ib., Section 3.)

#### **Dummy Engines, Use of, Authorized, Etc.**

SECTION 19. Said corporation is hereby authorized to operate its road in either or both of said Towns of Westbrook and Cape Elizabeth, or in said City of Portland, with dummy engines, with the consent of the municipal officers thereof. (Ib., Section 4.)

#### **Corporate Name Changed.**

SECTION 20. The title of said corporation is hereby amended by striking out the words "and Forest Avenue." (Ib., Section 5.)

#### **Authorized to Operate Road by Electricity.**

SECTION 21. The Portland Railroad Company is hereby authorized to operate its railroad, as now constructed or hereafter to be extended within the limits of the City of Portland and the Towns of Deering, Westbrook and Cape Elizabeth, by means of electricity with the consent of the municipal officers of said towns, including the City of Portland, and subject to such conditions and regulations as they may impose. (Special Laws of 1889, Chapter 439.)

#### **Portland Railroad Company Authorized to Lease Ocean Street Railroad.**

SECTION 23. The Portland Railroad Company, which was incorporated in the year 1860, by the name of the Portland and Forest Avenue Railroad Company, is hereby authorized to acquire by lease, purchase of capital stock, or otherwise, the rights and property of the Ocean Street Railroad Company in the Town of Deering, and to operate the railroad

of the latter company as a part of the street railroad system of the Portland Railroad Company with all the rights and liabilities attaching to said Ocean Street Railroad Company under its charter. (Special Laws of 1891, Chapter 38, Section 1.)

**Company Authorized to Issue Bonds and Mortgage Property — Extension of Road — Subject to Consent of Municipal Officers — May Use Electricity.**

SECTION 24. Said Portland Railroad Company is further authorized to issue its bonds to an amount not exceeding the amount of its capital stock actually paid in, of such denomination, on such time and at such rates of interest as it may find expedient and to secure the same by a mortgage of its franchises and property with or without a provision for a sinking fund to provide funds to meet the needs of its business, including the extension of its system of street railroads within the territory heretofore authorized, by acquisition of connecting roads or otherwise, and the establishment of an electrical power plant and necessary equipments for the operation of its railroad, or such portion thereof as may be found expedient, by electricity to the consent of the municipal authorities of the towns in which said railroad may be operated. (Ib., Section 2.)

**Capital Stock.**

SECTION 25. Said Portland Railroad Company is hereby authorized, for the purposes aforesaid, to increase its capital stock to an amount not exceeding five hundred thousand dollars. (Ib., Section 3.)

**Ocean Street Railroad Company Authorized to Extend Its Location and Tracks into Portland — Assent of Municipal Officers Required — Copy to Be Filed in City Clerk's Office — When Location Is Deemed Complete.**

SECTION 26. The Ocean Street Railroad Company is hereby authorized and empowered, upon vote of two-thirds of the stockholders therein, to extend its location and tracks into the City of Portland, and there construct, maintain and operate the same for and as a horse railroad, according to the Charter, approved March 4, 1880, creating said company, along and upon the streets of said city, not occupied for that purpose by any other corporation, upon like proceedings had and like assent given by the municipal officers of said city, to wit: said company shall first obtain the assent of the municipal officers of said city

thereto, and said officers shall at the same time determine within what limits of the street such tracks may be located and constructed, and shall prescribe such terms and conditions as to paving, repairs of streets, bridge and draw, and other matters, as it deems essential to the city's interest, which assent, conditions and determinations shall be made in writing, delivered to said company, and a copy thereof filed in the office of the clerk of said city, together with a description of the location of said tracks in accordance therewith, and the written assent of said company thereto, and thereupon the location shall be deemed made and completed, as is provided for in said charter, for the locating of the tracks of said company in the Town of Deering; and with all the rights and privileges and subject to all the burdens and liabilities in and about said location and the operating of said horse railroad in said city, as in said Town of Deering, which are granted and imposed by said charter, which is hereby amended and extended by making this Act a part thereof. (Special Laws of 1883, Chapter 189.)

PORTLAND AND YARMOUTH ELECTRIC RAILWAY COMPANY.

**Corporators — Corporate Name — Authorized to Construct a Street Railway — Route — May Construct Road Over Lands Where Damages Have Been Settled — May Fix Rates of Transportation.**

SECTION 27. Lorenzo L. Shaw, John H. Humphrey and Herbert A. Merrill of Yarmouth, Greely Sturdivant and Edmund R. Norton of Cumberland, Walker K. Sweet of Falmouth, William W. Merrill of Deering, Frederick N. Dow, Edward B. Winslow, Charles J. Chapman, Ansel R. Doten, Albion Little, Edwin L. Goding, Lewis A. Goudy, Franklin H. Morse, Henry S. Trickey, Henry S. Osgood, Thomas G. Harris, George W. Norton and Seth L. Larrabee of Portland, all in the County of Cumberland, their associates, successors and assigns, are hereby constituted a corporation by the name of the Portland and Yarmouth Electric Railway Company, with authority to construct, maintain and use a street railway, to be operated by electricity or animal power, with convenient single tracks, side tracks, switches or turnouts, with any necessary or convenient lines of poles, wire, appliances and appurtenances, and conduits, from such point on Congress street in said Portland, between Elm and Washington streets inclusive, as said corporation may elect and may be approved by the municipal officers of said Portland, and upon and over such streets, except Congress street, in



said Portland as may be fixed and determined by the municipal officers of said city and subject to such conditions and restrictions as they may impose, and assented to in writing by said corporation, to Tukey's bridge, thence on and over said Tukey's bridge, or on its location limits in navigable tide waters, in such place and manner and under such restrictions and limitations as the municipal officers of Portland may impose, to Maine street in the City of Deering; thence upon and over such streets in that part of said City of Deering known as East Deering as shall from time to time be fixed and determined by the municipal officers of said City of Deering and assented to in writing by said corporation, to the boundary line between said City of Deering and the Town of Falmouth with authority to go on and over Martin's Point bridge or on its location limits in navigable tide waters in such place and manner and under such limitations and restrictions as the county commissioners may impose; thence in a general northeasterly direction upon and over such town and county roads in the towns of Falmouth, Cumberland and Yarmouth, as may from time to time be fixed and determined by the municipal officers of the several towns aforesaid and assented to in writing by said corporation, to such point in the Town of Yarmouth as said corporation may elect; provided, that said corporation shall not by this charter acquire any rights upon and over the streets of the City of Portland other than are necessary for the location, establishment, maintenance and operation of its road from its actual terminus in said city in a continuous and reasonably direct line to Tukey's bridge aforesaid. Said corporation shall also have the authority to construct, maintain and use said railroad over and upon any lands where the land damages have been mutually settled by said corporation and the owners thereof; provided, however, that all tracks of said railroad shall be laid at such distances from the sidewalks of said towns, as the municipal officers thereof, respectively, shall, in their order fixing the routes of said railroad determine to be for public safety and convenience. The written assent of said corporation to any vote or votes of the municipal officers of said towns or said cities, prescribing from time to time the routes of said railroad, and the conditions and restrictions applicable to the maintenance and operation of the same, shall be filed with the respective clerks of said towns and cities, and shall be taken and deemed to be the location thereof. Said corporation shall have the power, from time to time, to fix such rates of compensation for transporting persons or property, as it may think expedient, subject however, in the City of Portland, to any restrictions imposed by the

municipal authorities in their consent to the location of said road, and generally shall have all the powers, and be subject to all the liabilities of corporations, as set forth in Chapter 46 of the Revised Statutes. (P. L., 1893, Chapter 477.)

### **Municipal Officers Shall Regulate Rail, Paving, Etc.**

SECTION 28. The municipal officers of said towns and cities shall have the power, at all times, to make all such regulations as to form of rail, paving between and outside of rails, grade of road bed, the rate of speed, and removal of snow and ice from the streets, roads and highways, by said company, as the public convenience and safety may require.

### **Powers May Be Delegated to Board of Directors.**

SECTION 29. All acts required by this Act to be done by said corporation, may be delegated by said corporation to its board of directors.

### **Company Shall Keep Streets Occupied by Tracks in Repair — City of Portland May Make Terms for Expenses of Maintaining Tukey's Bridge — County Commissioners May Make Terms for Maintenance of Martin's Point Bridge.**

SECTION 30. Said corporation shall keep and maintain in repair such portions of the streets, town or county roads or bridges, as shall be occupied by the tracks of its road, and shall make all other changes and repairs of said streets or roads or bridges as may be rendered necessary by the occupation of the same by said railroad, and if not changed and repaired upon reasonable notice, such changes and repairs may be made by said towns within their respective limits, at the expense of said corporation. But the municipal officers of the City of Portland may make such terms in relation to the amount of the expenses of change, maintenance and repair or rebuilding of Tukey's bridge as shall seem fair and proper in their judgment, provided, however, that in no case shall said city of Portland bear, assume or share any expenditure which is caused or necessitated by the location, construction or operation of said road; and the county commissioners may make such terms in relation to the amount of the expenses of the changes, maintenance and repairs of Martin's Point bridge as shall seem in their judgment fair and proper; provided, however, that in no case shall the County of Cumberland bear, assume or share any expenditure which is caused or necessitated by the location, construction or operation of said road.

**Penalty, for Wilfully Obstructing Road.**

SECTION 31. If any person shall wilfully and maliciously obstruct said corporation in the use of its roads or tracks, or the passing of the cars or carriages of said corporation thereon, such persons, and all who shall aid or abet therein, shall be punished by a fine of not exceeding two hundred dollars, or may be imprisoned in the County jail for a period of not exceeding sixty days.

**Capital Stock.**

SECTION 32. The capital stock of said corporation shall not exceed three hundred thousand dollars, to be divided into shares of one hundred dollars each.

**May Hold Real and Personal Property.**

SECTION 33. Said corporation shall have the power to lease, purchase or hold such real estate or personal property as may be necessary and convenient for the purposes and management of said railroad.

**Municipal Officers Shall Prescribe Rails, Grades, Etc. —  
Railroad Commissioners Shall Regulate Crossings.**

SECTION 34. Such railroad shall be constructed and maintained in such form and manner, and with such rails and other appliances, and on such grades, as may from time to time be deemed necessary by the corporation and approved by the municipal officers of the respective towns and cities through which the line of the road may be located, subject, however, in all respects to the requirements of the railroad commissioners; and whenever, in the judgment of said corporation, it shall be necessary to alter the grade of any street, town or county road, said alterations may be made at the sole expense of said corporation, provided, the same shall be assented to by the municipal officers of said towns or cities. If the tracks of said corporation's railroad cross any other railroad of any kind, in said towns or cities, and a dispute arise in any way in regard to the manner of crossing, the board of railroad commissioners of the State shall, upon hearing, decide and determine in writing, in what manner the crossing shall be made, and it shall be constructed accordingly.

**Location May Be Changed on Written Consent of Municipal Officers — Original Location Shall Be for Twenty-Five Years — May Be Renewed — If Right Is Granted to Another Company, It Shall Purchase Property of Said Company — If Parties Disagree, Appraisers May Be Appointed.**

SECTION 35. Said corporation may change the location of said railroad at any time, by first obtaining the written consent of the municipal officers of said towns or cities, respectively, and make additional locations subject to the foregoing provisions and conditions, but shall not be compelled to change a location once established as above, within twenty-five years. The original location of the route in the Cities of Portland and Deering, when granted, shall be for the term of twenty-five years. The same may be renewed from time to time for a term not exceeding fifty years at any one time, by said municipal officers, upon such terms as they may deem expedient. No such renewal shall be granted prior to two years before the expiration of the location then established. No location in the Cities of Portland and Deering shall be granted or renewed except upon reasonable prior notice to all parties interested. If at the expiration of any of said terms, the use of the streets, roads or highways occupied by said company's railroad is granted by the municipal officers of said cities to any other corporation or person, it shall be on condition that such corporation or person shall purchase of said company all its property of every description in necessary use for the purposes of said railroad upon the terms that may be agreed upon by the parties or determined by persons selected by them, and if they are unable to agree, the same shall be determined by three disinterested persons appointed by a justice of the Supreme Judicial Court on application of either party, and hearing thereon. Said appraisers shall be sworn, give notice of the time and place of meeting to examine and appraise said property, and shall make to each party a written award, and their services shall be paid in equal proportions by the parties. If the municipal officers of said cities determine that, at the expiration of any of said terms, the use of the streets, roads or highways occupied by said company's railroad shall be granted to any person or corporation for the purposes of a horse or electric railroad, on the payment of any sum of money or in any other manner, said company shall have the preference, and such use shall be granted or renewed to said company, provided it will pay as much therefor as any other person or corporation.

**Municipal Officers Shall Always Retain Control of Streets.**

SECTION 36. Nothing in this Act shall be construed to prevent the proper authorities of said towns or cities, respectively, from entering upon temporarily and taking up the soil in any of the streets, town and county roads, occupied by said railroad, for any purpose for which they may now lawfully take up the same.

**Exclusive Right, Granted — Other Roads May Connect with.**

SECTION 37. No other corporation or person shall be permitted to construct or maintain any railroad for similar purposes, over the same streets, roads or ways that may be lawfully occupied by this corporation; but any person or corporation lawfully operating any horse or electric railroad to any point to which this corporation's tracks extend, may enter upon, connect with and use the same on such terms and in such manner as may be agreed upon between the parties, or if they shall not agree, to be determined by the railroad commissioners of the State of Maine.

**May Issue Bonds, and Mortgage Property.**

SECTION 38. Said corporation is hereby authorized to issue bonds in such amount and on such time as it may from time to time determine, in aid of the purposes specified in this Act, and to secure the same by a mortgage of its franchises and property.

**First Meeting, How Called.**

SECTION 39. The first meeting of said corporation shall be called in the manner provided in the Revised Statutes, Chapter 46, Section 3.

**When Act Shall Be Void.**

SECTION 40. This Act shall have no force or effect unless work shall be begun on the road within two years, and at least five miles of the same be actually completed within three years from the approval of this Act.

**Charter and Powers Extended for Two Years — Liable for Damages.**

SECTION 41. All the provisions of Chapter 477 of the Private and Special Laws of 1893, relating to the incorporation of the Portland and Yarmouth Electric Railway Company and all the limitations therein contained, are hereby extended for and during the period of two years

additional thereto, and the persons named in said Act, their successors and assigns, shall have all the rights, powers and privileges that were granted them by said Act to be exercised in the same manner and for the same purposes as provided in this Act. Said corporation shall be liable for any damages to water and gas pipes caused by the action of the electric current used by it. (P. L., 1895, Chapter 110.)

**Organization of Portland and Yarmouth Electric Railway Company, Confirmed — Charter Extended — Liable for Damages.**

SECTION 42. The creation and organization of the Portland and Yarmouth Electric Railway Company is hereby ratified, confirmed and declared to be legal and valid, and all the provisions of Chapter 477 of the Private and Special Laws of 1893, and of Chapter 110 of the Private and Special Laws of 1895, relative to the incorporation of the Portland and Yarmouth Electric Railway Company, and all the limitations therein contained, are hereby extended for and during the additional period of two years from March 9, 1897, and said corporation, its successors and assigns, shall have all the rights, powers and privileges that were granted by said Acts, to be exercised in the same manner and for the same purposes as provided in this Act. Said corporation shall be liable for any damages to water and gas pipes caused by the action of the electric current used by it. (P. L., 1897, Chapter 518.)

**PORTLAND AND CAPE ELIZABETH RAILWAY COMPANY.**

**Route in Portland May Be Determined by Municipal Officers — May Change Location — Location Shall Be for Twenty-Five Years.**

SECTION 43. Jacob S. Winslow, Stephen R. Small, Albert D. Boyd, James H. Boyd and F. Coleman Boyd, their associates, successors and assigns, are hereby constituted a corporation, by the name of Portland and Cape Elizabeth Railway Company, with authority to construct, maintain and operate by electricity or animal power, a street railway, with convenient single or double tracks, side tracks, switches or turnouts, with all necessary or convenient lines of poles, wires, appliances, appurtenances, conduits and electric plants for motor power, beginning at the intersection of Cross and Free streets, in the City of Portland, and running thence on such one of the following three routes

as may be fixed and determined by the municipal officers of the City of Portland, within fifteen days after the approval of this Act; through Middle street to Union street, thence through Union street to the intersection of Union street with Commercial street, thence through Commercial street to the Portland bridge by way of Commercial street, and the street, road or open way running through the grounds of the Boston and Maine Railroad Company, or through and over such other grounds and ways as the said Portland and Cape Elizabeth Railway Company may determine, and so on as hereinafter mentioned; or through Cross street to the intersection of Cross street with Commercial street, thence through Commercial street by the route mentioned above to the Portland bridge, and so on as hereinafter mentioned; or through Free street to the intersection of Free street with Center street, thence through Center street to Commercial street, thence through Commercial street by the route mentioned above to Portland bridge, and so on as hereinafter provided; but if the municipal officers of the City of Portland do not, within fifteen days after the approval of this Act, designate one of said three routes for said railway company, then and thereafter said railway company shall have authority to construct, maintain and operate its railways and plants, as mentioned above, beginning at the intersection of Cross and Free streets, in the City of Portland, and running thence through Cross street to the intersection of Cross street with Commercial street, thence through Commercial street to the Portland bridge, by way of Commercial street, and the street, road, or open way running through the grounds of the Boston and Maine Railroad Company, or through and over such other grounds and ways as the company may determine, thence upon, over and across the land, flats and navigable tide waters on the easterly side of and adjoining said Portland bridge, and upon and over the draw and certain other parts of said bridge, as herein authorized, to and into the Town of Cape Elizabeth; and said Portland and Cape Elizabeth Railway Company is hereby further authorized to construct, maintain and operate by electricity or animal power a street railway, with convenient single or double tracks, side tracks, switches or turnouts, with all necessary or convenient lines of poles, wires, appliances, and electric plants for motive power in and through the said town of Cape Elizabeth, upon such streets, roads and highways in said town, as may, from time to time, be fixed and determined by the municipal officers of said town, and assented to in writing by said Portland and Cape Elizabeth Railway Company. Said corporation shall have authority to construct,

maintain and operate said railway over and upon any lands where the land damages have been mutually settled between said corporation and the owners thereof. The written assent of said corporation to any vote of said town, or of the municipal officers thereof, prescribing from time to time the route of such railway, shall be filed with the clerk of said town. Said railway corporation shall have the power, from time to time, to fix such rates of compensation for transporting persons or property as it may think expedient, and generally shall have all the powers and be subject to all the liabilities of corporations, as set forth in Chapter 46 of the Revised Statutes. Said corporation may change the location of said railroad at any time by first obtaining the written consent of the municipal officers of said City of Portland and said Town of Cape Elizabeth, and said county commissioners, with reference to said county way and bridge, respectively, and make additional locations subject to the foregoing provisions and conditions, but shall not be compelled to change a location once established, as above, within twenty-five years, excepting upon and over said Portland bridge, as herein provided. The original location of the route in the City of Portland and the Town of Cape Elizabeth, when granted, shall be for the term of twenty-five years. The same may be renewed from time to time for a term not exceeding fifty years at one time, by said municipal officers, upon such terms as they may deem expedient. No such renewal shall be granted prior to two years before the expiration of the location then established. No location in the City of Portland and the Town of Cape Elizabeth shall be granted or renewed except upon reasonable prior notice to all parties interested. If at the expiration of any of said terms the use of the streets, roads or highways occupied by said company's railroad is granted by the municipal officers of said city or town to any other corporation or person, it shall be on condition that such corporation or person shall purchase of said company all its property of every description in necessary use for the purposes of said railroad upon the terms that may be agreed upon by the parties or determined by persons selected by them, and if they are unable to agree the same shall be determined by three disinterested persons appointed by a justice of the Supreme Judicial Court, on application of either party, and hearing thereon. Said appraisers shall be sworn, give notice of the time and place of meeting to examine and appraise said property, and shall make to each party a written award, and their services shall be paid in equal proportions by the parties. If the municipal officers of said city or town determine that, at the expiration of any of said



terms, the use of the streets, roads or highways occupied by said company's railroad shall be granted to any person or corporation for the purposes of a horse or electric railroad, on the payment of any sum of money or in any other manner, said company shall have the preference, and such use shall be granted or renewed to said company, provided it will pay as much therefor as any other person or corporation. (Special Laws of 1895, Chapter 148.)

**Municipal Officers and County Commissioners Shall Have Power to Regulate Form of Rail, Grade and Speed, and Removal of Snow and Ice — Company Shall Keep in Repair, Such Portions of Streets as It Occupies.**

SECTION 44. The municipal officers of said town and city, and the county commissioners, with respect to said bridge, shall have the power, at all times, to make all such regulations as to form of rail, paving between and for eighteen inches outside of rails, grade of road bed, appliances and safe guards, rate of speed, and removal of snow and ice from the streets, roads and highways, by said company, as the public convenience and safety may require. Said corporation shall keep and maintain in repair such portions of the street, town or county roads and bridge as shall be occupied by the tracks of its railway and for a space of eighteen inches outside of each rail, and shall make all other changes and repairs of said streets and roads as may be rendered necessary by the occupation of the same by said railway.

**Authorized to Construct Bridge Adjoining Portland Bridge — Lay Tracks over the Draw of Portland Bridge — When Company Shall Build Its Own Bridge — Expense for Widening Portland Bridge Shall Be Borne by Company.**

SECTION 45. Said corporation may erect and construct in such manner as shall be approved by said county commissioners a way and bridge for its tracks on the easterly side and adjoining said Portland bridge, with an open draw therein for the passage of vessels, of the same width as the draw of said Portland bridge, and may, under such regulations as said county commissioners shall from time to time prescribe, lay its tracks on and over the draw of said Portland bridge and upon and over the easterly side of Portland bridge for such space or distance from the Portland end of said draw as said county commissioners shall prescribe for entering upon and leaving the same, and upon

and over the easterly side of said bridge and highway from the Cape Elizabeth end thereof to said draw under such requirements as said county commissioners may from time to time prescribe, provided, that, after a period of five years from the construction of said road upon the Cape Elizabeth end of said bridge said county commissioners may upon notice and hearing, and without right of appeal, determine and prescribe that said corporation shall remove its tracks from the Cape Elizabeth end of said bridge or any part thereof excepting said draw, and such space from the southerly end thereof as said county commissioners shall prescribe for entering upon and leaving the same, and said corporation shall thereupon remove its said tracks and construct its own bridge and way upon the easterly side of said Portland bridge as herein authorized; and provided further, that if, at any time, said county commissioners or any court of competent jurisdiction shall determine that said Portland bridge and way shall be widened by the county, the expense thereof to the extent of eight feet in width for land damage, construction and repairs shall be borne by said corporation.

#### **Company Shall Erect and Maintain All Fences on Bridges.**

SECTION 46. Said corporation shall at all times erect and construct and maintain all such fences, partitions and other protections between its bridge and tracks and the highway over and upon said bridge as said county commissioners shall prescribe for the safety of the public in the use of said highway and bridge, and shall repair and pay all wear and damage of said Portland bridge and draw and highway caused by its use of the same and all damage and expense which said county may thereby suffer or incur. And in no case shall the County of Cumberland bear, assume or share any expenditure which is caused or necessitated by the location, construction or operation of said road.

#### **May Issue Bonds and Mortgage Property.**

SECTION 47. Said Portland and Cape Elizabeth Railway Company is hereby authorized to issue bonds in such amounts and on such time and terms as it may from time to time determine for any money which it may borrow, and secure the same by mortgages of its franchises, railways and property. All bonds which shall be issued by said company shall be binding and legal, notwithstanding such bonds may be negotiated and sold by said company or its agents at less than their par value.

**May Invest in Summer Hotels, Etc.**

SECTION 48. Said Portland and Cape Elizabeth Railroad Company shall have power to aid, or invest its funds, in the construction, maintenance or carrying on of summer hotels, summer or shore resorts, or amusements at such resorts.

**Capital Stock.**

SECTION 49. The capital stock of said corporation shall not exceed five hundred thousand dollars, to be divided into shares of one hundred dollars each, provided, however, that if the said capital stock is found by the directors of said corporation to be insufficient for carrying out the purposes and powers of said corporation, then said corporation may increase said capital stock from time to time to any amount, for the purposes provided for in this Act. Such increase, however, must be assented to by vote, either in person or by proxy, of two-thirds in amount of all the stockholders, at a meeting thereof called by the directors for that purpose.

**Liable for All Damages.**

SECTION 50. Said corporation shall be liable for any loss or damage which any person may sustain by reason of any neglect or misconduct of its agents or servants, or by reason of any defect in said streets or roads occupied by said railway if such defect arise from neglect or misconduct of the corporation, its servants or agents. Said corporation shall be liable for all damages caused by its current to water and gas pipes.

**Penalty for Obstructing Corporation.**

SECTION 51. If any person shall wilfully or maliciously obstruct such corporation in the use of its road, tracks or property, or the passage of cars or carriages of said corporation thereon, such person and all who aid and abet therein, shall be punished by a fine not exceeding two hundred dollars, or may be imprisoned in the county jail for a period not exceeding sixty days.

**May Hold Real Estate.**

SECTION 52. Said corporation may lease, purchase, receive, let, dispose of or hold such real and personal estate and motive power as may be necessary and convenient for the purposes and management of said railway and power plant and station.

**Municipal and County Authorities May Prescribe Form of Rail and Grade — Manner of Crossing Other Railroads Shall Be Determined by Railroad Commissioners.**

SECTION 53. Said railway shall be constructed and maintained in such form and manner and with such rails and other appliances as may be deemed necessary by the corporation and may be approved by said city, town and county authorities respectively, and upon such grades as the municipal officers of said city or town and the county commissioners of Cumberland County with respect to said county way and bridge, respectively, may direct; and whenever in the judgment of said corporation it shall be deemed necessary to alter the grade of any street, town or county road, said alteration may be made at the expense of said corporation, provided, the same shall be assented to in writing by the municipal officers of said city or town and the county commissioners of Cumberland County, with respect to said county way and bridge, respectively. If the tracks of said corporation's railway cross any other railway of any kind in either said city or town and a dispute arises in any way in regard to the manner of crossing, the board of railroad commissioners of the State, shall, upon hearing, decide and determine in writing, in what manner the crossing shall be made, and it shall be constructed accordingly.

**Stock May Be Transferred to Any Person in Consideration of Any Claim against Corporation.**

SECTION 54. The directors of said company shall have absolute power and authority to issue or transfer stock to any person or corporation in consideration of any claim or demand against said Portland and Cape Elizabeth Railway Company, or construction work done for said company, or in payment for any property, right or privilege granted to the company, and such stock may be issued in such amounts and on such terms as said board of directors may from time to time determine, and such stock shall be the same as if actual cash had been paid therefor and shall be full paid and non-assessable stock.

**May Change Location by Permission of Municipal Officers and County Commissioners.**

SECTION 55. Said corporation may change the location of any of its railways by first obtaining the consent of the municipal officers of said city or town or of said county commissioners, with respect to said county way and bridge, and may make additional locations, subject to the foregoing provisions and conditions of this charter.

**Authority of City, Town and County, over Streets, Preserved.**

SECTION 56. Nothing in this Act shall be construed to prevent the proper authorities of said city, town or county from entering upon and temporarily taking up the soil, paving or planking in any city, town or county road occupied by said railway, or the tracks, planking and timbers of said railroad, and its way across said tide waters, for any purpose for which said town, city or county may now lawfully take up the same, and for which said county authorities may deem it necessary to take up the same, for purposes of reconstruction or repairs.

**Exclusive Right, Granted — Other Street Railway May Connect with.**

SECTION 57. No other corporation or person shall be permitted to construct or maintain any railway for similar purposes over the same streets, roads or ways, that may be lawfully occupied by this corporation; but any person or corporation lawfully operating any street railway to any point to which this corporation's tracks extend, may enter upon, connect with and use the same on such terms and in such manner as may be agreed upon between the parties.

**Rights and Liabilities.**

SECTION 58. Said railway corporation shall have all the rights and be subject to all the liabilities of street railways under the laws of this State, except so far as this Act is inconsistent therewith, or makes provisions in regard to any special subject, power or matter.

**May Sell or Lease Its Franchise to Any Connecting Company.**

SECTION 59. Said Portland and Cape Elizabeth Railway Company is hereby authorized to lease or sell its railways, property and franchises, to any other connecting company or companies, or to unite and consolidate its stock, property, franchises and railways, with those of any connecting company or companies, or take a lease of the railways, property and franchises of any other connecting company or companies, and to issue mortgage bonds in payment therefor; and all other connecting companies are hereby authorized to lease or sell their railways, property and franchises to this company, or to buy or to take a lease of the railways, property and franchises of this company, or to unite or consolidate their stock, property, franchises and railways with those of this company.

**When Running of Cars May Be Discontinued.**

SECTION 60. Said corporation shall not be required to run cars upon its road during the winter season, when the line of the road is blocked with snow and ice, or when the convenience or wants of the public do not demand it, except in the City of Portland, and from said Portland to the village of Willard, in said Town of Cape Elizabeth.

**Subject to General Laws, in Erection of Lines.**

SECTION 61. In the erection and maintenance of its poles, posts, lamps and wires, said corporation shall be subject to the general laws of the State, regulating the erection of posts and lines for the purposes of electricity.

**First Meeting, How Called.**

SECTION 62. The first meeting of said corporation may be called by one of the corporators, giving written notice to the others of the time and place of the meeting, at least seven days before the meeting.

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**GENERAL RAILROAD ENACTMENTS.****City May Sell Interest in or Reorganize Portland and Ogdensburg Railroad or Portland and Rochester Railroad Company.**

SECTION 1. The city council of Portland is authorized to sell any or all of the interests of the City of Portland in the stocks, bonds, obligations or mortgages of any railroad corporation, now held by the city, on such terms as said council may determine, and is authorized to unite upon such terms as said council may approve in any plan or plans for reorganizing the Portland and Ogdensburg Railroad Company, or the Portland and Rochester Railroad Company, or for making available the interests of the city in the stock, bonds, obligations or mortgages of either of said corporations, provided, nothing herein contained shall authorize incurring any executory obligation or liability, direct or indirect, contingent, or absolute, in behalf of said city. (Special Laws of 1877, Chapter 382.)

**Towns May Aid in Constructing Railroads.**

SECTION 2. Any city or town, by a two-thirds vote, at any legal meeting called for the purpose, may raise by tax or loan, from time to time

or all at once, a sum not exceeding in all five per cent. on its regular valuation for the time being, to aid in the construction of railroads, in such manner as it deem proper, and for such purpose may contract with any person or railroad corporation. At such meetings the legal voters shall ballot, those in favor of the proposition, voting "Yes," and those opposed, voting "No." The ballots cast shall be sorted, counted and declared in open town meeting, and recorded, and the clerk shall make return thereof to the municipal officers, who shall examine such return and if two-thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect. (R. S., Chapter 51, Section 135.)

### **Provisions for Payment of Loan.**

SECTION 3. A city or town raising money by loan as aforesaid or under authority conferred by Special Act of the legislature shall raise and pay or fund besides the interest, each year after the third, not less than three per cent. of the principal. Any town or city receiving money, bonds, certificates of indebtedness or other evidence of debt in consideration of exchange, release or sale of its securities held to indemnify said city or town for having loaned its credit, or issued its bonds in aid of any railroad shall hold such money, bonds, certificates of indebtedness, or other evidence of debt or the proceeds thereof as a trust fund to liquidate such outstanding liabilities so long as they may continue. (R. S., Chapter 51, Section 136.)

### **How Meetings in Cities Shall Be Called and Votes Cast and Counted.**

SECTION 4. Meetings for the purposes aforesaid in cities shall be called by the municipal officers, on the order of the common council, like meetings for the election of city officers; and said council shall set forth in their order the substance of the proposition to be inserted in the warrant. At such meetings, the voters shall vote in wards by ballot, those in favor of the proposition in the warrant voting "Yes," and those opposed, voting "No," and the ballots cast shall be sorted, counted and declared in open ward meeting and recorded; the clerks shall make returns thereof to the municipal officers, who shall examine the same; and if two-thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry it into effect. (R. S., Chapter 51, Section 137.)

**To Vote Only Once a Year on Same Question.**

SECTION 5. Whenever a city or town has voted at any legal meeting thereof upon any question of loaning its credit to, or taking stock in, or in any way aiding any person or corporation, said city or town shall not vote again upon the same subject, except at its annual meeting. (Ib., Section 138.)

**Town Agent May Vote on Town Stock.**

SECTION 6. When a city or town holds stock in a railroad, the municipal officers thereof, or any agent appointed by them in writing, may vote thereon at any meeting of the corporation. (Ib., Section 139.)

**Railroads Owned in Part by Towns — Eligibility of Citizens as Directors.**

SECTION 7. Whenever any city or town in the State, in its corporate capacity, holds one-fifth, or more, of the shares in the capital stock of any railroad incorporated by the legislature, any citizen thereof, being a freeholder and resident therein, is eligible as a director of such railroad company. (Ib., Section 140.)

**Ways Crossing Railroad Tracks, How Laid Out.**

SECTION 8. Town ways and highways may be laid out across, over or under any railroad track, in the same manner as other town ways and highways, except that before such way shall be constructed the railroad commissioners, on application of the municipal officers of the city or town wherein such way is located, or of the parties owning or operating the railroad, shall, upon notice and hearing, determine whether the way shall be permitted to cross such track at grade therewith or not, and the manner and conditions of crossing the same, and the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne by such railroad company, or by the city or town in which such way is located, or shall be apportioned between such company and city or town as may be determined by said railroad commissioners. Said commissioners shall make a report in writing of their decision thereupon, file the same in their office, and cause to be sent by mail or otherwise to each of the railroad corporations, and the municipal officers of the city or town, as the case may be, interested therein, a copy of such decision. Such decision shall be final and binding upon all parties, unless an appeal there-



from shall be taken and entered to the next succeeding term of the Supreme Judicial Court, to be held in the county where the crossing is located, more than thirty days after the date of the filing of the report. The appellant shall within fourteen days from the date of the filing such report, file in the office of the board of railroad commissioners its reasons for appeal, and fourteen days at least before the sitting of the appellate court it shall cause to be served upon such other interested corporations or municipality a copy of such reasons for appeal, certified by the clerk of the board of railroad commissioners. The presiding justice, at such term of court, shall make such order or decree thereon as law and justice may require. Exceptions may be taken to such order or decree. The final adjudication shall be recorded as provided in Section 30 of this chapter. Costs may be taxed and allowed to either party at the discretion of the court. (Ib., Section 27.)

**Crossings of Highways and Streets, How Made— Ways May Be Raised or Lowered, Etc., on Application to Railroad Commissioners.**

SECTION 9. Railroads may cross highways or town ways in the line of the railroad, but cannot pass along them without leave of the town; but when a railroad is hereafter laid out across a highway or other public way, it shall be constructed so as to pass either over or under such way, unless the railroad commissioners, after notice and hearing, authorize a crossing at grade. Before entering upon the construction of any railroad the manner and conditions of crossing shall be determined as provided by Section 27 of Chapter 18, as amended. But no crossing of a street in a city, nor a highway, shall be made without the written consent of the mayor and aldermen. Crossings not so made are nuisances, and may be so treated, and the directors of railroad corporations making them are personally liable.

Highways and other ways may be raised or lowered for the purpose of permitting a railroad to pass over or under the same, or the course of the same may be altered so as to facilitate such crossing, or to permit a railroad to pass at the side thereof, on application to the railroad commissioners, and proceeding as provided by Section 27 of Chapter 18, as amended by this Act, and for such purpose land may be taken and damages awarded as provided for laying out highways and other ways. (Ib., Section 28.) 45 Me. 563, 47 Me. 34, 49 Me. 11, 121, 156, 51 Me. 315, 57 Me. 117, 134, 58 Me. 47, 65 Me. 292, 77 Me. 594, 83 Me. 273, 87 Me. 247.

**Ways May Be Raised or Lowered for Crossing.**

SECTION 10. Upon a written application and after notice to those interested, the commissioners may authorize any way to be raised or lowered, or its course to be altered, to facilitate a crossing, and may prescribe the manner in which it shall be done by the corporation. While its passage is thereby obstructed a temporary way shall be provided by the corporation. (Ib., Section 29.) 38 Me. 30, 49 Me. 121, 157.

**Neglect Subjects to Damages.**

SECTION 11. When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in an action on the case, commenced within one year after performance is required.

**Highways, How to Be Passed — Not to Be Obstructed.**

SECTION 12. No engine or train shall be run across a highway near the compact part of a town at a speed greater than six miles an hour, unless the parties operating the railroad maintain a flagman, or a gate, or automatic signals, ordered or approved by the railroad commissioners, at the crossing of such highway. And no way shall be unreasonably and negligently obstructed by engines, tenders or cars. The corporation forfeits not exceeding one hundred dollars for every such offence. (R. S., Chapter 51, Section 75. Ib., Section 30.) 49 Me. 126, 51 Me. 315, 67 Me. 357.

**Railroad May Be Carried over or under a Canal or Railroad — Corporation Liable for Damages — Bridges and Abutments to Be Kept in Repair — Municipal Officers to Give Notice When Bridge Is Not Safe and Convenient.**

SECTION 13. A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation on them. The corporation making such crossing is liable for damages occasioned thereby in an action on the case. Bridges and their abutments, constructed for a crossing of any way, shall be kept in repair by the corporation, or by persons or parties running trains on any railroad crossing, a highway or town way. The municipal officers of any city or town may give notice in writing to such

persons, parties or corporations that a bridge required at such crossing has not been erected, or is out of repair, and not safe and convenient, within the requirements of Chapter 18 of Section 52, or that the crossing of any such highway or town way passing such railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient, as required by said section ; and such persons, parties or corporations shall erect or repair such bridge, or make such crossing safe and convenient, as aforesaid, within ten days from the service of said notice ; and if they neglect so to do, any one of said municipal officers may apply to any justice of the Supreme Judicial Court, in term time or vacation, to compel such delinquents to erect or repair such bridge, or make such crossing, as aforesaid ; and after hearing, such justice or court may make any order thereon which the public convenience and safety require, and may, by injunctions, compel the respondents to comply therewith ; or said officers may, after ten days from the service of such notice, cause necessary repairs to be made, and the expense thereof shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient. (Ib., Section 31.) 37 Me. 451.

**Company Shall Erect and Maintain Bridge Guards—To be Approved by Railroad Commissioners—Penalty for Refusal or Neglect—For Breaking or Destroying.**

SECTION 14. Every railroad corporation shall erect and maintain suitable bridge guards at every bridge or other structure, any portion of which crosses the railroad less than twenty feet above the track ; such guards must be approved by the railroad commissioners, and be erected and adjusted to their satisfaction. Any corporation refusing or neglecting to comply with this section, for each month of continuance in such neglect or refusal, forfeits fifty dollars ; and whoever wilfully destroys or breaks any such bridge guard forfeits not exceeding one hundred dollars, and may be imprisoned not exceeding thirty days. (Ib., Section 32.)

**Bell on Engine, and When to Be Rung—Whistle or Bell Sounded for Warning—Boards Erected to Give Notice of Crossing.**

SECTION 15. A bell of the weight of thirty-five pounds or more shall be placed on each engine used on a railroad, and shall be rung at the distance of eighty-five rods or more from the crossing of a way

on the same level or running contiguous thereto, and kept ringing until the engine has passed the same; and a steam whistle, or, in cities and villages, a bell, shall be sounded as a warning at a distance of a hundred rods; and boards, with the words, "Railroad Crossing," distinctly painted thereon, on each side, in letters plainly legible, shall be placed on the side of a way where it is crossed by a railroad, on a post or other structure, in such position as to be easily seen by persons passing upon such way. (Ib., Section 33.) 55 Me. 441, 57 Me. 134, 117, 67 Me. 105.)

**Town Officers May Request Company to Provide Gates at Railroad Crossings—Application to Railroad Commissioners in Case of Refusal, Who May Require Flagmen or Automatic Signals Instead of Gates.**

SECTION 16. When the municipal officers of a town deem it necessary for public safety that gates should be erected across a way where it is crossed by a railroad, and that a person should be appointed to open and close them, they may make such request in writing; and in case of neglect or refusal they may apply to the railroad commissioners to decide upon the reasonableness of such request, who after notice and hearing shall decide. When they decide that such a request is reasonable, or that at said crossing a flagman or automatic signals are necessary for the public safety, they may, upon said application, order a flagman to be stationed or automatic signals to be maintained there instead of gates, and the corporation shall comply with such order and pay the costs; when they decide otherwise, the costs shall be paid by the applicants. (Ib., Section 34.)

**Penalty for Neglect of Two Preceding Sections, and Liability to Action for Damages.**

SECTION 17. For unnecessarily neglecting to comply with any provision of the two preceding sections, the corporation forfeits not exceeding five hundred dollars. Any person, whose duty it is to open or close such gates for the passage of an engine or traveller on a way, neglecting so to do, forfeits not exceeding fifty dollars. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent, or for the mismanagement of an engine, to be recovered in an action on the case by the person damaged thereby. (Ib., Section 35.) 43 Me. 269, 57 Me. 134.

**Railroads Crossing other Railroads and Highway Bridges —  
Manner Determined by Railroad Commissioners.**

SECTION 18. The board of railroad commissioners shall have authority to determine the manner and conditions of one railroad of any kind crossing another. Any corporation or party operating such railroad may apply to said board for a change in the then existing condition, construction or manner of any such crossing. Such application shall be in writing, giving the location of the crossing, and said board shall give a hearing thereon, after they have ordered such notice to be given by the applicants, as to the time, place and purposes of such hearing, as said board shall deem proper. Said board shall determine at such hearing what changes, if any, are necessary, and how such crossings shall be constructed and maintained, the expense thereof to be borne as the railroad commissioners may order. (P. L., 1895, Chapter 72, Section 1.)

**Crossings, How to Be Constructed.**

SECTION 19. In the case of a railroad company of any kind whose tracks are to be constructed across the tracks of any railroad already built, such crossings shall be made, constructed and maintained in such manner and under such conditions as shall be ordered by the board of railroad commissioners, the expense thereof to be borne as the railroad commissioners may order. The parties contemplating making such crossing shall apply to the railroad commissioners in writing, giving the location of the crossing desired, and said commissioners shall give a hearing thereon after they shall have ordered such notice to be given by the applicants of the time, place and purposes of such hearing as said board shall deem proper. At such hearing the board of railroad commissioners shall determine the manner and conditions of construction and maintenance of such crossing, and make their report, as hereinafter provided. (Ib., Section 2.)

**Bridges Erected by City Shall Be Maintained, How.**

SECTION 20. Bridges erected by any municipality, over which any railroad passes, shall be constructed and maintained in such manner and condition as to safety, as the board of railroad commissioners may determine. Said board shall have authority to require the officers of the railroad company and those of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest,

as said board may deem proper. Said commissioners shall determine at such hearing the repairs, renewals or strengthening of parts, or if necessary the manner of rebuilding of such bridge, required to make the same safe for the uses to which it is put. They shall determine who shall bear the expenses of such repairs, renewals, strengthening or rebuilding of such bridge, or they may apportion such expense between the railroad company and the city or town, as the case may be, in such manner as shall be deemed by the board as just and fair. Said board shall make their report as hereinafter provided. (Ib., Section 3.)

### **Commissioners to Make Report of Their Decisions—Appeals.**

SECTION 21. The board of railroad commissioners shall make a report in writing of their determinations and decisions in the matters named in the three preceding sections, file the same in their office, and cause to be sent by mail to each of the railroad corporations, or the municipal officers of the cities or towns, as the case may be, interested therein, a copy of such determination or decision. Such decision or determination shall be final and binding upon all parties named, unless an appeal therefrom shall be taken and entered in the next succeeding term of the Supreme Judicial Court, to be held in the county where the crossing or bridge is located, after thirty days from the date of the report. (Ib., Section 4.)

### **When Appeal Is Taken, Appellant to File Reasons for Appeal.**

SECTION 22. If any appeal shall be taken as provided in the preceding section, the appellant shall within thirty days from the date of the filing of such decision, file in the office of the board of railroad commissioners, its reasons for appeal, and fourteen days at least before the sitting of the Appellate Court, it shall cause to be served upon such other interested corporation or municipality a copy of such reasons for appeal, certified by the clerk of the board of railroad commissioners. The presiding justice, at such term of court, shall make such order or decree thereon as law and justice may require. Exception may be taken to such order or decree. The final adjudication shall be recorded by the clerk of courts in the county where the crossing or bridge is located, and a copy of the same shall be certified by said clerk to the board of railroad commissioners for record in their office. Costs may be taxed and allowed to either party at the discretion of the court. (Ib., Section 5.)

**Petition for Approval of Location — If Municipal Officers Do Not Approve, Appeal May Be Taken.**

SECTION 23. Every corporation organized under the foregoing provisions before commencing the construction of its road, shall present to the railroad commissioners a petition for approval of location, accompanied with a plan of the proposed line on an appropriate scale, defining its courses, distances and boundaries, and with the written approval of the proposed route and location as to streets, roads or ways of the municipal officers of the cities and towns in which said railway is to be constructed in whole or in part, and with a report and estimate prepared by a skilled engineer. If the municipal officers upon a written application therefor, neglect for thirty days to approve a route and location as to streets, roads or ways, or if they refuse to approve such a route and location, or if such route and location approved by them is not accepted by the corporation, in either case, said corporation may appeal to the next term of the Supreme Judicial Court to be held in any county where any part of said railway is located, more than thirty days from the expiration of said thirty days, or from the date of such refusal, or from the approval of a location that is not accepted by the corporation or otherwise, as the case may be, excluding the day of the commencement of the session of said court. If said railway is located in two or more counties, the Supreme Judicial Court in either county shall have jurisdiction of any such appellate proceedings. The appellants shall serve written notice of such appeal upon said municipal officers fourteen days, at least; before the session of said court, and shall at the first term file a complaint setting forth substantially the facts of the case. If the appeal is then entered, and not afterwards, the court shall appoint a committee of three disinterested persons who shall be sworn and if one of them dies, declines or becomes interested, the court may appoint some suitable person in his place, and they shall give such notice as the court has ordered, view the proposed route or routes, and location or locations, and make their report at the next term of the court after their appointment, defining therein the route and location as to streets or ways as determined by them, which after acceptance and entry of judgment thereon, shall forthwith be certified to the railroad commissioners and received by them in lieu of the approval of the municipal officers. Costs may be taxed and allowed as the court may order. A failure to appeal shall not bar the corporation from making a new application to the municipal officers. Said commissioners shall, upon presentation of such petition, appoint a day for a hearing thereon,

and the petitioners shall give such notice thereof as said commissioners deem reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. At such hearing any party claiming to be interested may appear in person or by counsel and such appearance shall be entered on record. The board of railroad commissioners, after hearing the petition, shall, if they approve such location, subject to the provisions of Section 9, make a certificate of such determination in writing. If the board of railroad commissioners approve said location, the corporation may then proceed with the construction of said road, provided that they first file with the clerk of county commissioners of the county in which said street railroad is to be located, a copy of the location and plan aforesaid, and another copy of the same with the board of railroad commissioners. Any extension of, addition to or variation from the location by any street railway organized under the provisions of this Act may be made in accordance with, and subject to the limitations of the foregoing provisions, provided, that no railway shall be located across tide waters, where vessels can navigate, without special permission of the legislature first obtained. But no such permission shall be necessary where such railways desire to cross public bridges already erected, but the authority to determine whether such crossing shall be permitted shall rest with the municipal officers of the cities or towns liable for the repair of such bridges, respectively, who may impose such conditions and terms upon railways desiring to cross the same as to them may seem expedient. In case any county is liable for the repair of a bridge, the county commissioners of such county shall have authority in the premises. But no road shall be located under this Act, over any street in any city in this State, without the permission of the mayor and aldermen thereof, unless it shall be otherwise determined by a committee of judges of the Supreme Judicial Court, on appeal, as hereinbefore provided for appeals from the decisions of the board of railroad commissioners, and such appeal may be taken by any party interested, including an existing street railroad claiming to be injuriously affected by such location, to the Supreme Judicial Court, substantially in the manner and with the effect as hereinbefore provided. (P. L., 1893, Chapter 268, Section 6.)

### **Municipal Officers to Prescribe Manner of Construction.**

SECTION 24. Street railways shall be constructed and maintained in such form and manner, and with such rails and upon such grade as the municipal officers of the cities and towns where the same are located



may direct, and whenever in the judgment of such corporation it shall be necessary to alter the grade of any street, town or county road, said alterations shall be made at the sole expense of said corporation with the assent and in accordance with the directions of such municipal officers. If the tracks of a street railway cross any steam railway and a dispute arises in any way in regard to the manner of crossing, the board of railroad commissioners shall, upon hearing, decide and determine in writing in what manner the crossing shall be made, and it shall be constructed accordingly. (Ib., Section 11.)

### **Poles, Wires, Etc., under Control of Municipal Officers.**

SECTION 25. Any corporation organized under the provisions of this Act may erect and maintain all necessary or convenient power stations, car houses and lines of poles, wires, appliances and appurtenances, subject to the general laws of the State regulating the erection of posts and lines, for the purposes of electricity. (Ib., Section 14.)

### **Municipal Officers May Make Regulations.**

SECTION 26. The municipal officers of any town shall have power at all times to make all such regulations as to the mode of use of tracks of any street railway, the rate of speed and the removal and disposal of snow and ice from the streets, roads and ways, by any street railway company, as the public safety and convenience may require. (Ib., Section 15.)

### **Streets to Be Kept in Repair.**

SECTION 27. Such corporations shall keep and maintain in repair such portions of the streets, roads or ways, as shall be by them occupied, and shall make all other repairs therein, rendered necessary by such occupation. If not repaired upon reasonable notice, such repairs may be made by said towns at the expense of said corporation. (Ib., Section 16.)

### **Municipal Officers May Authorize Company to Discontinue Running Cars in Winter.**

SECTION 28. Upon a written application by any street railway company, to the municipal officers of any city or town, and hearing thereon, the municipal officers may authorize said company to discontinue the running of its cars, during such portion of the winter months, and upon such terms and conditions as they may determine; said company may

appeal from such decision to the board of railroad commissioners, who shall after reasonable notice and hearing, make such a determination thereon as shall be reasonable and proper, and their decision shall be final. (Ib., Section 19.)

### **Municipal Officers May Approve Additional Locations and Turnouts.**

SECTION 29. When the location of any street railroad shall have been approved as provided by law, the municipal officers may approve such additional locations for turnouts and spurs to property used or to be used by said corporation in the operation of its road as shall be necessary therefor, and such additional locations shall not be deemed to be extensions, additions or variations within the meaning of this Act. (Chapter 187 of 1901, Section 5.)

### **Railroad Companies May Build Branch Tracks to Manufacturing, Etc.**

SECTION 30. Any railroad corporation, under the direction of the railroad commissioners, may locate, construct and maintain branch railroad tracks to any mills, mines, quarries, gravel pits, or manufacturing establishments erected in any town or township, but not within any city through which the main line of said railroad is constructed, without the consent of the city council, and for that purpose said corporation shall have all the powers and rights granted, and be subject to all the duties imposed upon it by its charter. (R. S., Chapter 51, Section 18.)

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## **ORDERS.**

### **BRIDGES OVER RAILROAD TRACKS.**

### **Bridges over Danforth, Emery, Summer, Clark, Beach, Brackett, State and Park Streets — How to Be Maintained — Grades, Etc.**

SECTION 1. Ordered, That the following written consent to cross streets, issued under the hands of the mayor and aldermen to the Boston and Maine railroad, viz.:

Be it known, consent is hereby given by the mayor and aldermen of the City of Portland to the Boston and Maine railroad to cross

Danforth, Emery, Summer, Clark, Beach, Brackett, State and Park streets, within the limits of the present location of said railroad upon condition said road shall construct and always maintain overhead bridges and change grade of the streets, as may be necessary for such bridges, and pay all damages caused by said change of grade, provided and upon condition that the construction of said change of grades shall be in all respects satisfactory to the committee on streets, sidewalks and bridges, on the part of this board, and subject to such orders as may from time to time have been or may hereafter be given by this board. And further provided, and upon condition that in building their road and said bridges across said streets said railroad shall use all possible diligence and shall conform to all directions given by said committee, from time to time, for the purpose of facilitating travel on said streets, and shall hold the city harmless from all damages, suits and expenses of litigation in any way connected with the premises, and shall conform to all directions of said committee, or the mayor and aldermen, in relation to sewers, sidewalks, gas and water pipes. (June 3, 1871, Vol. 17, City Records, page 158.)

#### **High Street Bridge.**

SECTION 2. Under an order passed July 24, 1873, consent was given the Boston and Maine Railroad Company to cross High street. The conditions imposed under this order are similar to those of the preceding section. (Vol. 17, City Records, page 433.)

#### **York Street Extension.**

SECTION 3. For agreement with Boston and Maine Railroad Company relative to extension of York street, see Vol. 17, pages 215, 216.

#### **York Street Bridge, Agreement Relative to.**

SECTION 4. This agreement given by the Boston and Maine railroad to the City of Portland, witnesseth:

Whereas the City of Portland has agreed to release to said railroad the right, title and interest to said city in the fee of so much of Beach street as lies between Brackett and Clark streets, and also have proposed, on the request of said company, to discontinue said portion of Beach street and a portion of Summer street. And whereas the committee of the city council on laying out new streets have made their

several reports, each dated July 19, A. D. 1872, discontinuing said portions of Beach and Summer streets, and laying out an extension of York street from Brackett to Beach streets, to all which reports reference is had for greater certainty,

Now therefore, in consideration of the premises, said railroad agrees with and promises the City of Portland as follows :

1. To hold said city harmless from all claims of any person or corporation for damages by reason of the discontinuance of either of said streets, as above reported, and from all expenses on account of the same.

2. To pay all damages for land or buildings, by reason of the extension of York street, as above reported, in excess of three thousand (\$3,000) dollars, and all expenses on account of said excess, and all expenses in resisting any claim or claims for such excess, if any.

3. To dedicate to the use of said proposed extension of York street, as above reported, all land covered by the same, owned by said railroad without charge or damage for the same.

4. To construct said extension of York street, as reported, and complete the same ready for travel, with all necessary protection walls, and with sidewalks, curbs and gutters, the same to be at the grade directed by the city, provided said grade does not interfere with the crossing of said railroad at the elevation now proposed by said railroad. Also to construct and always maintain a bridge over said railroad at the crossing of York and Clark streets, the full width of York street, and of the full width of Clark street, in all respects to be strong, permanent, and of the best character, as an overhead bridge adopted to public travel on each of said streets, and so constructed as fully to accommodate said travel. To construct and always maintain wing walls and permanent walls or fences for the protection of the public and all adjoining streets and estates, so far as the same are rendered necessary or proper by any of the proposed changes in any of said streets, as reported.

5. All the work agreed to be done as above by the said railroad to be in all respects subject to the approval or disapproval of the city council or of the committee on streets, sidewalks and bridges.

6. To hold said city harmless from all other charges, expenses and damages not above specifically enumerated, arising from the above proposed discontinuance or laying out of any of said streets, as reported. (Dated August 1, 1872.)

## PORTLAND AND FOREST AVENUE RAILROAD.

**Location of Tracks.**

SECTION 5. Ordered, That the tracks of the Portland and Forest Avenue Railroad Company shall be located in the City of Portland as follows, but upon the express condition to the location, that said railroad company shall, at all times after the rails are laid down, keep in good order and complete repair, at their own expense, that portion of all streets through which the said rails are or may be laid, lying between the rails, and also that portion of the street lying outside of the rails and adjacent thereto, extending one foot and a half from and outside of each rail, throughout the whole length of said railroad in the streets of the City of Portland; and also that the work of laying down the tracks and rails of said road shall be done under the direction and to the satisfaction of the municipal officers, and also the form and kind of rail, to be used shall be satisfactory to said municipal officers and approved by them: (Order May 26, 1863, Section 1.)

(NOTE. For orders in relation to the West End Street Railway, see City Records, Book 20, page 356, and for charter of same, see Private Laws of 1881. For charter of Portland and Deering Railroad, see Private Laws, 1873, Chapter 394, and 1878, Chapter 31.)

**Routes of Road — Turnouts.**

SECTION 6. Said location beginning at or near the depot of the Atlantic & St. Lawrence railroad, and thence extending with one track over the following streets, viz.: up India street to its junction with Middle, thence from the junction of India and Middle streets, up Middle to the head of Preble street, thence from the head of Preble street over Preble street to Portland street, thence from the junction of Preble and Portland streets over Portland street to its junction with Parris street, thence from the junction of Portland and Parris streets over said Parris street, to its junction with Kennebec street, thence from the junction of Parris and Kennebec streets over said Kennebec street to Green street, thence from the junction of Kennebec and Green streets over Deering's bridge, to the line of Westbrook. And diverging from this route in Congress street near the head of Preble street, and extending therefrom by two tracks over said Congress street to the head of High street, thence from the junction of Congress and High streets with one track over High street to Spring street, thence from the junction of High and Spring streets over Spring street to Clark street,

thence from the junction of Spring and Clark streets over Clark street to Pine street, thence from the junction of Clark and Pine streets, over said Pine street to Congress street, thence from the junction of Pine and Congress streets over Congress street to the head of High street, so as to connect with the tracks hereinbefore specified, and extending to the head of Preble street, and thence by one track from the junction of Congress and Preble streets over said Congress street to Atlantic street; also diverging from Congress street in front of the new city building at the head of Exchange street, and extending over said Exchange street to Middle street, with such turnouts as may be necessary for the safe and convenient operation of said road, and for reaching their car houses, as may be approved by the municipal officers. (Ib., Section 2.)

#### **Tracks to Be Laid in or near Center of Streets — Grades and Curves.**

SECTION 7. The tracks of said railroad shall be laid in or near the center of the streets above named and to such grades as shall be determined by the municipal officers; and the curves around the corners of all streets shall be located by the city engineer under the direction of the municipal officers, with the coöperation of the directors of said railroad company. (Ib., Section 3.)

#### **Construction of Tracks — Snow and Ice — Rules and Regulations.**

SECTION 8. And this location is granted upon the express condition that in the construction of said tracks, blocks of stone of the alternate length of eighteen and twenty inches, measuring from the rail outward, and otherwise of such quality, form and size as the municipal officers may direct, shall be laid down outside of each rail; and upon the further condition, that said railroad company, shall, at their own expense, pave between their double tracks, wherever double tracks are laid, and also between their rails throughout the whole length of said railroad in the streets of the city; said pavement to be, until otherwise ordered, fair quality round beach paving stone, and to be laid to the satisfaction of the municipal officers; and upon the further condition that whenever there shall be snow or ice in said streets to the depth of six inches or less, said railroad company may remove the same from their tracks, by shovels or by using such kind of snow plough as the street commissioner shall approve of provided they level it off and grade outside of

their rails, so as to allow sleighs and other vehicles to pass along said streets and over their rails with safety and convenience. But whenever there is solid snow or ice exceeding the depth of six inches in said streets, then said railroad company shall not be allowed to remove the same from their rails without first obtaining the consent of the street commissioner, approved by the municipal officers, and then only upon condition that they haul it off and grade the streets wherever said snow or ice is so removed, to the satisfaction of the street commissioner. But if their consent for removing said snow or ice is refused, then said railroad company is authorized to use a sufficient number of sleighs, or mount their cars on runners, to convey passengers over their road until the cars can be used on their tracks.

And upon the further condition that said railroad company shall faithfully observe and obey the following rules and regulations in using their road, viz.:

1. That no car shall be drawn at a greater speed on their road than six miles an hour.

2. That while the cars are turning the corners from one street to another, the horses shall not be driven faster than a walk.

3. The cars driven in the same direction shall not approach each other within a distance of three hundred feet, except in case of accident or at stations.

4. That cars running in different directions shall not be allowed to stop abreast each other except at stations.

5. That no car shall be allowed to stop on a cross walk nor in front of an intersecting street, except to avoid collisions or prevent danger to persons in the street.

6. That in case the conductor of any car is required to stop at the intersection of two streets to receive or land passengers, the car shall be so stopped as to leave the rear platform slightly over the last crossing.

7. That the conductor and driver of each car shall keep a vigilant watch for all teams, carriages, persons on foot, and especially for children, and upon the least appearance of danger to such teams, carriages, persons or children, the car shall be stopped in the shortest time possible.

8. That the conductors do not allow ladies or children to enter or leave the cars while in motion.

9. That no salt or other article shall be used in removing snow or ice from their tracks, which may prove injurious to sleighs or other vehicles crossing them, without the consent of the municipal officers.

10. That a printed copy of these rules and regulations shall be put up and kept in a conspicuous place inside of every car used on their road.

And also upon the further condition that said railroad company shall accept the location hereinbefore specified, and agree to the several provisions, conditions and regulations connected with the same, within one month from March 1, 1863, and said company shall file in the office of the city clerk a duly certified copy of the vote, agreeing to this location, with its conditions and regulations, within said one month, and make and complete, and put in running order said railroad, in two years from said date, otherwise such portion as is not then made shall be null and void.

And also upon the further condition that said railroad company shall comply with and obey any and all other rules, regulations, orders, ordinances or requirements which have been adopted, or may be adopted at any time hereafter by the municipal officers of Portland in relation to said railroad, or to the streets through which the tracks thereof are laid, not inconsistent with the rights herein granted.

And upon the further condition that any similar corporation hereafter incorporated, which shall construct its railroad in any of the streets of the City of Portland, where the Portland and Forest Avenue Railroad Company have no track, may enter upon and connect with and use the track of said Portland and Forest Avenue Railroad Company for such rates of compensation as may be mutually agreed upon, and in case of disagreement of the directors of said companies, three disinterested persons shall be appointed by a judge of the Supreme Court, upon the application of either party and due notice to the other, who shall upon hearing fix said rates of compensation and determine all matters in dispute between said companies, and the services of said commissioners shall be paid in equal proportions by said companies.

And it is expressly understood that the municipal officers reserve all the rights and powers granted them by Sections 2, 3 and 7 of the Act incorporating said company; and that none of said rights or powers so granted shall be deemed to be in any way waived, limited or qualified by anything contained in this order. (Ib., Section 4.)

#### **Additional Locations.**

SECTION 9. Ordered, That the Portland and Forest Avenue Railroad Company be, and they are hereby authorized to extend the location of their railroad from their present terminus on Clark street, over and



upon Spring street to Bowdoin street, upon the same terms and conditions, and with the same restrictions and limitations as are now granted by the terms of the original location of said road. (Order, December 7, 1863.)

(NOTE. The conditions of acceptance by the company were complied with by the properly attested papers received, and placed on file at the city clerk's office, March 23, and April 24, 1863.)

**Permission Granted Portland Railroad Company to Lay Tracks through Pearl and Commercial Streets.**

SECTION 10. Ordered, That permission be granted to the Portland Railroad Company to lay a single track through Pearl street, from Middle to Commercial street, thence through Commercial to India, and thence through India street to a connection with a track of said company on said India street, on the location hereinafter described, together with the requisite curves of said track in passing from street to street, as described in the said location, subject, however, to all the requirements and conditions contained in the charter of said railroad and on the express condition that each and every order and ordinance of the City of Portland relative to said railroad company, as set forth in the revised ordinances of said city, pages 404 to 409 inclusive, as well as such orders as may be hereafter passed, relative thereto, be fully observed by said company in the construction and maintenance of said track and street, and in all operations thereupon, and on the further condition that said railroad shall at their own expense pave between the rails and outside of the same to the distance of one and one-half feet, with granite blocks of the dimensions and quality of those in common use in the city streets (apart from crosswalks), excepting, however, that in that part of Pearl street which is unpaved the track shall be paved inside with granite blocks of the size and quality above named, and outside with the usual large granite blocks, said blocks and paving to be furnished and laid at the expense of said railroad; and on the further condition that the said track shall be laid and completed to the entire satisfaction of the mayor, city engineer and street commissioner of said city, the location of the center line of said track to be as follows: The entire location to be eight feet wide, lying four feet on either side of said center line, beginning at a point in the center of said company's track on Middle street, and on the westerly side line of Pearl street produced thereto; thence on a curve to southward with a radius of thirty-nine and a half ( $39\frac{1}{2}$ ) feet, a distance of fifty-three (53) feet,

to a point twenty-five feet distant, at right angles from the easterly side line of said Pearl street, produced; thence southerly through Pearl street on a line tangent to said curve, and twenty-five (25) feet distant from said easterly side line, a distance of seven hundred sixty-nine (769) feet to the northerly side line of Commercial street; thence on a curve to eastward with a radius of forty-six (46) feet, a distance of seventy-five (75) feet, to a point distant twelve and a half ( $12\frac{1}{2}$ ) feet northerly at right angles from the northerly rail of the main track of the Atlantic and St. Lawrence railroad in said Commercial street; thence easterly through Commercial street on a line parallel with said railway, and twelve and a half ( $12\frac{1}{2}$ ) feet distant therefrom, a distance of seven hundred fifty-eight (758) feet to a point distant one hundred sixty-five (165) feet easterly from the easterly side line of Franklin street, produced; thence on a curve to southward, with a radius of twelve hundred and fifty (1,250) feet, a distance of two hundred twenty-six (226) feet to a point distant eight and a half ( $8\frac{1}{2}$ ) feet at right angles, northerly from said northerly rail, and fifty (50) feet westerly from the westerly side line of India street, produced; thence easterly on a line tangent to last described curve, and eight and a half ( $8\frac{1}{2}$ ) feet distant from the said northerly rail, a distance of twenty-seven (27) feet; thence on a curve to northward toward India street, with a radius of sixty-three (63) feet, a distance of one hundred and five (105) feet, to a point of intersection with the center line of said company's track on India street, at a distance of forty (40) feet northerly from the center of the turntable on said track, as shown on the plan of the city civil engineer accompanying this order. This order to take effect when assented to in writing by said corporation, and said writing filed with the city clerk. (Passed July 3, 1882.)

**Permission Granted Portland Railroad Company to Lay Tracks through Congress Street from Vaughan Street to the Union Station.**

SECTION 11. Ordered, That the consent, so far as the mayor and aldermen are authorized by law, be and is hereby given to the Portland Railroad Company, to lay rails for a horse railroad, with one track at grade with the travelled way, on Congress street, beginning at the present terminus of said road on said Congress street, near the easterly side of Vaughan street, thence running westerly across Vaughan street and down Congress street, near the center of the street to a point about six hundred feet westerly from the westerly line of Vaughan street, thence

on a curve southward about two hundred feet, keeping the northerly rail about forty-three and one-half feet from the northerly line of the said Congress street; from this point running westerly along said street as far as the crossing of the Maine Central Railroad, keeping throughout, within the above-named limits as set off from the northerly line of the said street.

From the present terminus of said railroad track near the easterly side of Vaughan street, the said extension shall be laid for a distance of six hundred feet, with flat rail, and with "T" rail from that point as far as Gilman street, and from this point westerly with such form of rail as this board may hereafter direct. And it is a condition of this permit, that said Portland Railroad Company shall be subject to the written orders and directions of the committee on streets, sidewalks and bridges, in locating and constructing said horse railroad, and shall at all times hereafter keep the same in good order and repair, and conform to all orders hereafter from time to time made by this board in reference to the form of rail used by said railroad company on said street, and to paving or changing the grade of pavement about the same. Provided, nevertheless, that the board of mayor and aldermen shall hereafter at any and all times have the right to change or in any way modify the consent hereby given. (Passed August 17, 1885.)

#### **Renewal of Locations of Portland Railroad Company's Route for Term of Fifty Years.**

SECTION 12. Ordered, That the location of the route of the Portland Railroad Company as now operated within the limits of the City of Portland be renewed and granted for the term of fifty years from the expiration of the original location, subject to the terms and conditions contained in the original order and ordinance relating thereto, as passed by the board of mayor and aldermen on March 2, 1863. (Passed September 6, 1886.)

#### **Permission Granted Portland Railroad Company to Lay Tracks through Neal, Carroll, Vaughan and Bramhall Streets.**

SECTION 13. Ordered, That the Portland Railroad Company is hereby authorized to locate and build their road from the present terminus on Spring street to Neal street, thence through Neal street to Carroll street, thence through Carroll street to Vaughan street, thence through Vaughan and Bramhall streets to a connection with the Congress street

line, with such curves and turnouts as may be necessary; the same to be located by the city engineer with approval of the street commissioner. (Passed March 7, 1887.)

**Permission Granted Portland Railroad Company to Lay Tracks on Congress Street from Union Station to Libby's Corner.**

SECTION 14. Ordered, That the Portland Railroad Company be and hereby is authorized to locate and build their road from the present terminus on Congress street, at or near the station of the Maine Central Railroad, thence through Congress street to the city line at Libby's Corner, with such curves, turnouts and sidings as may be necessary. Said track to be located by the city engineer and to the satisfaction of the street commissioner. (Passed March 7, 1887.)

**Permission Granted to Portland Railroad Company to Lay Tracks on St. John Street from Congress Street to Union Station.**

SECTION 15. Ordered, That the Portland Railroad Company be and hereby is authorized to locate and extend its tracks from some convenient point as now located on Congress street in said city, so as to connect with the Union Railway Station on St. John street in said city, and also so as to connect with the car house and stable of said railroad company now in process of erection on said St. John street, with necessary curves and cross-overs, and such change in the position of the track on Congress street near St. John street as may be rendered necessary by the above extension. Said location to be made by the city engineer with approval of the street commissioner. (Passed May 18, 1888.)

**Permission Granted Portland Railroad Company to Lay Tracks in Monument Square.**

SECTION 16. Ordered, That the Portland Railroad Company be and it is hereby authorized to locate and build a single track connecting its Congress street and Middle street lines in Monument Square, passing in front of the United States hotel and the Soldiers' and Sailors' monument lot, with such curves and cross connections as may be necessary for that purpose. The location of the same to be designated by the city engineer and to be built in a manner satisfactory to the street commissioner. (Passed April 23, 1890.)

**Permission Granted Portland Railroad Company to Lay Tracks on Atlantic, Wilson and Beckett Streets and Eastern Promenade.**

SECTION 17. Ordered, That the Portland Railroad Company be and it is hereby authorized to locate and construct its tracks with cobble stone pavement between the tracks and granite flagging on the outside, on the following streets, viz.: Beginning at a point on its track as at present located near the junction of Congress and Atlantic streets, thence running through Atlantic to Wilson street, thence through Wilson to Beckett street, thence through Beckett street to the Eastern Promenade, thence over the Eastern Promenade to a point opposite Fort Allen Park, with necessary curves, turnouts and cross connections, to conveniently operate the same, as may be located by the city engineer. (Passed May 8, 1890.)

**Permission Granted Portland Railroad Company to Lay Tracks on Beckett Street.**

SECTION 18. Ordered, That the Portland Railroad Company be and hereby is authorized to locate and extend its tracks from some convenient point as now located on Beckett and Wilson streets so as to connect with the car house and stable of said railroad company now in process of erection on said Beckett street; with necessary curves and cross-over and such changes in the location of the tracks on Beckett and Wilson streets as may be made necessary by the above extension. (Passed June 15, 1891.)

**Permission Granted Portland Railroad Company to Lay Tracks Across Long Bridge.**

SECTION 19. Ordered, That the Portland Railroad Company be and the same is hereby authorized to locate, construct, maintain and operate a single track over and across Long bridge so called at Stroudwater village, and along the northerly side thereof so as to connect its tracks as located by the selectmen of the Town of Deering on either side of said bridge. (Passed June 22, 1891.)

**Permission Granted Portland Railroad Company to Lay Tracks through Morning and Congress Streets.**

SECTION 20. Ordered, That the Portland Railroad Company be and hereby is authorized to locate, construct, maintain and operate single tracks for its railroad from a point in its present track as now located

on the Eastern Promenade opposite Morning street, through Morning street to Congress street, thence through Congress street to a connection with the present tracks on said street, together with such curves, switches and electrical appliances as are necessary to operate the same. Said tracks to be laid under the supervision of and to the satisfaction of the commissioner of public works. (Passed June 26, 1895.)

**Permission Granted Portland Railroad Company to Lay Tracks through Portland Street from Forest Avenue to St. John Street, and through St. John Street to Union Station.**

SECTION 21. Ordered, That the Portland Railroad Company be and hereby is authorized to locate, construct and operate single tracks for its street railway from a point connecting with its present tracks as now located on Portland street at its junction with Green street, (Forest avenue) through Portland street to St. John street, there to connect with the tracks as now located at the junction of Portland and St. John streets, with such turnouts as may be necessary for the operation of the same.

Also to extend its tracks from a point on St. John street, opposite the Union Station, southerly through St. John street to its terminus with such turnouts as may be necessary for the operation of the same. Said tracks to be paved and constructed under the supervision and to the satisfaction of the commissioner of public works. (Passed August 28, 1895.)

**Permission Granted Portland Railroad Company to Lay Track on Washington Avenue.**

SECTION 22. Ordered, That permission be and is hereby given the Portland Railroad Company, to extend and maintain its track over and through Washington street (Washington avenue), from its junction with Congress street to the northerly end of Tukey's bridge, on the following condition: Said corporation shall keep and maintain in repair such portions of the streets or bridges of the City of Portland as shall be occupied by the tracks of its road, and shall make all other changes and repairs of said streets or bridges as may be rendered necessary by the occupation of the same by said railroad, and if not changed or repaired upon reasonable notice such changes and repairs may be made by said City of Portland, at the expense of said corporation. And the municipal officers of the City of Portland may make terms in relation

to the amount of the expenses of change, maintenance and repair, or rebuilding of Tukey's bridge, as shall seem fair and proper in their judgment, provided, however, that in no case shall said City of Portland bear, assume or share any expenditure which is caused or necessitated by the location, construction or operation of said road. Said corporation shall file with the city clerk its written acceptance of the aforesaid permission and conditions therein named, before beginning the work of laying said track. (Passed August 28, 1895.)

### **Schedule of Running Time of Portland Railroad Company.**

SECTION 23. The following schedule of running time upon the different routes within the city was presented by the Portland Railroad Company to the board of mayor and aldermen, and was approved and adopted by that board, November 4, 1895.

Congress Street Line. — From Fort Allen Park to Union station twenty-five minutes, round trip fifty minutes.

Spring Street Line. — From Vaughan and Bramhall streets to Grand Trunk depot, twenty minutes, round trip forty minutes.

Union Station and Post Office Line. — From Union Station to Grand Trunk depot, twenty minutes, round trip forty minutes.

Stroudwater Line. — From Libby's Corner to Grand Trunk depot, twenty-five minutes, round trip fifty minutes.

Deering and Westbrook Line. — Between Deering bridge and Monument square, five minutes, round trip ten minutes.

Provided, that in no case shall the speed exceed ten miles per hour.

### **Permission Granted Portland Railroad Company to Lay Tracks on Free and Oak Streets.**

SECTION 24. Ordered, That the Portland Railroad Company be and hereby is authorized to locate, construct, maintain and operate an extension of its tracks from a point connecting with its tracks on Congress street, near its junction with Free street, thence through Free street to Oak street, thence through Oak street to Congress street, with the necessary curves, switches and cross-overs, to connect the same with its tracks, as now located on Congress street, and for the convenient operation of the cars on said extension.

Permission is also granted to set and maintain the necessary poles, wires, fixtures and appliances requisite to operate said extension by electricity, in order to accommodate by its system of street railway the patrons of the new theatre now in process of construction on the corner of Oak and Free streets. (Passed September 10, 1897.)

**Portland Railroad Company Authorized to Cross Tukey's Bridge.**

SECTION 25. Ordered, That upon the execution of a written agreement by the Portland Railroad Company, to pay to the City of Portland the sum or twenty thousand dollars (\$20,000) in the manner following, towards the cost of rebuilding Tukey's bridge, including paving, said sum to be paid in ten annual installments, of two thousand dollars (\$2,000) each with interest at the rate of five per cent. per annum, from January 1, 1898, payable annually, the first payment to be made January 1, 1898, if said bridge is then open to travel, otherwise as soon as so opened, and succeeding payments to be made on each first day of January thereafter until the full sum of twenty thousand dollars with interest as aforesaid shall be paid, such being the terms in relation to the amount of the expense of rebuilding Tukey's bridge which shall be borne by the said Portland Railroad Company, for the occupation of said bridge by its tracks, poles, wires, appliances and appurtenances, fixed and determined by this board, the right is hereby granted to said Portland Railroad Company, its successors and assigns to lay and maintain for its exclusive use a single track on said bridge on the westerly side of the same, connecting with its tracks as now located at either end of said bridge, and to erect and maintain the poles and overhead fixtures on said bridge necessary to operate said railroad, by electricity, so long as said bridge shall stand, provided said Portland Railroad Company, its successors and assigns shall locate and construct its said track under the supervision of the commissioner of public works, and shall maintain its said track and road and the substructure under the same in good condition, and shall keep and maintain in good repair such portions of said bridge as shall be occupied by said track and road, including the paving of said bridge, between the rails and for eighteen inches outside said rails, and shall make all other changes and repairs of said bridge that may be rendered necessary by reason of the occupation of the same by said Portland Railroad Company, its successors and assigns, and if such changes or repairs are not made by said Portland Railroad Company, its successors or assigns upon reasonable notice, such changes and repairs are to be made by the said City of Portland at the expense of said Portland Railroad Company, its successors or assigns, and provided also that if said Portland Railroad Company, its successors or assigns shall allow any other person, company or corporation to run its cars over its said track on said bridge by lease or otherwise, or shall operate such other road itself said railroad company, its successors or assigns



shall thereby assume and fulfil all the obligations such other person, company or corporation are under to said City of Portland by reason of the location of the track of such other person, company or corporation, upon said bridge, and shall thereby be and become subjected to all the terms and conditions to which said other person, company or corporation are or at the time may be subjected by its charter, by the terms of its location or by contract with said City of Portland, and that nothing in this order shall be construed as interfering with or in any way limiting the right of said City of Portland to grant to any other person, company or corporation, the right to locate another track or tracks over said bridge. And provided further that the right of said Portland Railroad Company, its successors and assigns to have and maintain its or their track, poles, wires, appliances, and appurtenances or any portion thereof on said bridge, shall be conditioned upon the payment of said sum of twenty thousand dollars and interest in accordance with the terms and conditions therein expressed; and upon the failure of said railroad company, its successors or assigns to make said payments or either one of them promptly when the same shall become due, the right to occupy said bridge by its or their track, poles, wires, appliances and appurtenances shall cease and the said City of Portland shall have the right to remove said track, poles, wires, appliances and appurtenances, and to repave said bridge, and put the same in a condition safe and convenient for public travel, at the expense of said railroad company, its successors or assigns, if the same are not removed and said repairs thereby rendered necessary to said bridge are not made by said railroad company, its successors or assigns, within thirty days after written notice requiring the same to be removed, and said bridge to be put in a condition safe and convenient for public travel. Provided, also, that this order shall be of no effect unless within ten days from its passage its terms and conditions are accepted by the said railroad company by legally authorized written acceptance filed with the city clerk, and a written agreement is entered into between said railroad company and said City of Portland, for the payment of said sum of twenty thousand dollars, with interest as aforesaid, and embracing all the terms and conditions contained in this order. And the city treasurer is hereby authorized and instructed to execute such a contract in behalf of said City of Portland, with said railroad company; and the said city clerk is hereby directed to notify said railroad company of the passage of this order, by at once sending a certified copy thereof to Edward A. Newman, its treasurer. (Passed December 7, 1897.)

**Portland Railroad Company Authorized to Lay Tracks on Deering Avenue.**

SECTION 26. Ordered, That permission be and is hereby granted the Portland Railroad Company to locate, construct, maintain and operate double tracks for an extension of its railroad from a point at the intersection of Portland and Grove streets, (Deering avenue,) thence through Grove street to the boundary line between the City of Portland and the City of Deering, at or near the junction of Grove street (Deering avenue) and the county road, now known as Brighton avenue, thence diverging with a single track from Grove street through Brighton avenue so called to the boundary line between the City of Portland and the City of Deering near the crossing of the Maine Central Railroad Company, with such curves and switches as may be necessary for the convenient operation of the same. Said tracks to be located by and constructed under the supervision of the commissioner of public works, and to the satisfaction of the board of mayor and aldermen. Said Portland Railroad Company is also authorized to erect and maintain the poles, wires and electrical appliances necessary to operate by electricity the extension of its road as above set forth, such poles to be of southern pine, dressed and chamfered to be placed at an average distance of one hundred (100) feet apart, (as near as may be,) the trolley wires to be suspended at an average distance of eighteen (18) feet and the feed wires at an average of twenty-two (22) feet above the ground. The work of construction to be done under the supervision of the city electrician and to the satisfaction of the board of mayor and aldermen. The above rights are granted on condition that said railroad company shall keep and maintain in good repair such portions of said streets as shall be occupied by the tracks of its road, and shall pave with granite blocks between its rails and for eighteen (18) inches on either side of the same, and shall make all repairs of said streets which may be rendered necessary by the occupation of the same by said railroad, and if not made on reasonable notice such repairs may be made by the City of Portland at the expense of said corporation. (Passed May 23, 1898.)

**Permission Granted Portland Railroad Company to Lay Tracks through Danforth Street to Vaughan's Bridge and across Vaughan's Bridge.**

SECTION 27. Ordered, That permission be and hereby is granted to the Portland Railroad Company to locate, construct, maintain and operate tracks for an extension of its railroad from a point at the intersection

of St. John street and Danforth street, thence through Danforth street to Vaughan's bridge, thence across said bridge to the boundary line between the City of Portland and the City of South Portland. Said tracks to be constructed by and under the supervision of and to the satisfaction of the commissioner of public works, and in accordance with the orders and ordinances of the City of Portland. Subject to such terms and conditions as to the crossing of Vaughan's bridge as may be determined by agreement between the board of mayor and aldermen and the directors of the Portland Railroad Company when said bridge, or the draw of the same, shall be rebuilt. (Passed November 13, 1899.)

**Permission Granted Portland Railroad Company to Lay Tracks through High and York Streets and on Park Street Bridge.**

SECTION 28. The Portland Railroad Company is also hereby authorized to connect the tracks of the Portland Railroad Company with the tracks of the Portland and Cape Elizabeth Railway Company, by extending its present track on High street over and through High street, York street and Park street bridge to a connection with the tracks of the Portland and Cape Elizabeth Railway Company, on Commercial street, and to locate, construct and maintain the same for the operation of its cars between Portland and South Portland, and temporarily for the operation of the Scarboro, Old Orchard and Saco extension, until such time as other arrangements may be made.

Such alterations as may be necessary for the strengthening of Park street bridge to be assumed and borne by the said Portland Railroad Company, the same to be determined by the board of railroad commissioners as required by statute.

All of said tracks to be located and constructed under the supervision of and to the satisfaction of the commissioner of public works and in accordance with the ordinances of the City of Portland. (Passed March 4, 1901.)

**Portland Railroad Company Authorized to Lay Tracks across St. John Street to Car Barn.**

SECTION 29. Ordered, That the Portland Railroad Company be and hereby is authorized to construct, maintain and operate curves and connections from its tracks on St. John street, to a connection with the tracks entering its new car barn now being erected on the easterly side of said street.

Said track to be constructed under the supervision of the committee on public works, and in accordance with the city ordinances. (Passed December 2, 1901.)

**Permission Granted Portland and Yarmouth Electric Railway Company to Lay Tracks across Tukey's Bridge.**

SECTION 30. Ordered, That upon the execution of a written agreement by the Portland and Yarmouth Electric Railway Company to pay to the City of Portland the sum of twenty thousand dollars (\$20,000), in the manner following, toward the cost of rebuilding Tukey's bridge, including paving, said sum to be paid in ten annual instalments, of two thousand (\$2,000) dollars each, with interest at the rate of five per cent. per annum, from July 1, 1898, payable annually, the first payment to be made July 1, 1898, and succeeding payments to be made on the first day of July, thereafter, until the full sum of twenty thousand (\$20,000), with interest as aforesaid, shall be paid, such being the terms in relation to the amount of the expense of rebuilding Tukey's bridge, which shall be borne by the said Portland and Yarmouth Electric Railway Company, for the occupation of said bridge by its tracks, poles, wires, appliances and appurtenances, fixed and determined by this board. The right is hereby granted to said Portland and Yarmouth Railway Company, its successors and assigns, to lay and maintain for its exclusive use a single track on said bridge, on the easterly side of the same, connecting with its tracks as now located or hereafter to be located, at either end of said bridge, and to erect and maintain poles and overhead fixtures on said bridge, necessary to operate said railway by electricity, so long as said bridge shall stand.

Provided said Portland and Yarmouth Electric Railway Company its successors and assigns shall locate and construct its said track under the supervision of the commissioner of public works of said City of Portland and shall locate and erect its poles and overhead fixtures and place its wires under the supervision of the city electrician and shall at its own expense, and without expense to said City of Portland, replace the paving and flooring of said bridge in a thorough, substantial and workmanlike manner so that the paving and flooring of said bridge shall in every respect be as good as it was before it was disturbed for the purpose of laying its said track, and shall at all times hold said City of Portland harmless from any and all damages, suits and actions caused by or arising out of the work of taking up the paving, and laying its track and replacing the paving on said bridge or in any way connected

with the work of laying its track and erecting its poles, wires and fixtures on said bridge; and provided said Portland and Yarmouth Electric Railway Company shall maintain its said track and road and the substructure under the same in good condition, and shall keep and maintain in good repair such portions of said bridge as shall be occupied by said track and road, including the paving of said bridge between the rails and for eighteen inches outside of said rails and shall make all other changes and repairs of said bridge that may be rendered necessary by reason of the occupation of the same by said Portland and Yarmouth Electric Railway Company, its successors and assigns, and if such changes or repairs are not made by said Portland and Yarmouth Electric Railway Company, its successors or assigns upon reasonable notice, such changes and repairs are to be made by the said City of Portland at the expense of said Portland and Yarmouth Electric Railway Company, its successors or assigns, and provided also that if said Portland and Yarmouth Electric Railway Company, its successors or assigns, shall allow any other person, company or corporation to run its cars over its said track on said bridge by lease or otherwise, or shall operate such other road itself, said railway company, its successors or assigns, shall thereby assume and fulfill all the obligations such other person, company or corporation are under to said City of Portland by reason of the location of the track of such other person, company or corporation, upon said bridge, and shall thereby be and become subjected to all the terms and conditions to which said other person, company or corporation are or at the time may be subjected by its charter, by the terms of its location or by contract with said City of Portland, and that nothing in this order shall be construed as interfering with or in any way limiting the right of said City of Portland to grant to any other person, company or corporation, the right to locate another track or tracks over said bridge. And provided further that the right of said Portland and Yarmouth Electric Railway Company, its successors and assigns, to have and maintain its or their track, poles, wires, appliances and appurtenances or any portion thereof on said bridge, shall be conditioned upon the payment of said sum of twenty thousand dollars and interest in accordance with the terms and conditions herein expressed; and upon the failure of said railroad company, its successors or assigns, to make said payments or either one of them promptly when the same shall become due, the right to occupy said bridge by its or their track, poles, wires, appliances and appurtenances shall cease and the said City of Portland shall have the right to remove said track, poles, wires, appliances and

appurtenances, and to repave said bridge, and put the same in a condition safe and convenient for public travel, at the expense of said railway company, its successors or assigns, if the same are not removed and said repairs thereby rendered necessary to said bridge are not made by said railway company, its successors or assigns, within thirty days after written notice requiring the same to be removed, and said bridge put in a condition safe and convenient for public travel. Provided also that this order shall be of no effect unless within ten days from its passage its terms and conditions are accepted by the said railway company by legally authorized written acceptance filed with the city clerk, and a written agreement is entered into between said railway company and said City of Portland, for the payment of said sum of twenty thousand dollars, with interest as aforesaid, and embracing all the terms and conditions contained in this order. And the city treasurer is hereby authorized and instructed to execute such a contract in behalf of said City of Portland, with said railway company; and the said city clerk is hereby directed to notify said railway company of the passage of this order, by at once sending a certified copy thereof to Hon. Seth L. Larrabee, its attorney. (Passed May 26, 1898.)

**Permission Granted Portland and Yarmouth Electric Railway Company to Lay Tracks on Elm and Oxford Streets and Washington Avenue.**

SECTION 31. Ordered, That the location of the Portland and Yarmouth Electric Railway Company, in the City of Portland, be fixed and determined as follows, viz.:

Beginning at the intersection of Elm and Congress streets, and running thence through the center of Elm street to its intersection with Oxford street, thence through the center of Oxford street to its intersection with Washington street (Washington avenue), thence through Washington street (Washington avenue), as near the center as practicable, to the northerly end of Tukey's bridge, and that permission be, and hereby is, given to said Portland and Yarmouth Electric Railway Company to set and maintain such poles, wires, appliances and fixtures as are necessary therefor along and upon the location aforesaid. (Passed September 12, 1895.)

**Permission Granted Cape Elizabeth Railway Company to Lay Tracks on Cross and Commercial Streets, and Portland Bridge.**

SECTION 32. Ordered, That permission is hereby given to the Cape Elizabeth Railway Company to construct and operate its railroad within the limits of the City of Portland by electrical power by the single

trolley system, and to set and maintain such poles, wires, appliances and fixtures as are necessary along and upon the following streets, viz.: Beginning at the intersection of Cross and Free streets, in the City of Portland, and running thence through Cross street to the intersection of Cross street with Commercial street; thence through Commercial street to the Portland bridge by way of Commercial street, and the street, road or open way running through the grounds of the Boston and Maine Railroad Company, or through and over such other grounds and ways, as the company may determine, thence upon, over and across the lands, flats, and navigable tide waters on the easterly side of and adjoining said Portland bridge, and upon and over the draw, and certain other parts of said bridge, as authorized to and into the town of Cape Elizabeth. (Passed May 3, 1895.)

**Permission Granted Cape Elizabeth Railway Company to  
Lay Tracks on Market and Federal Streets, and  
Monument Square.**

SECTION 33. Ordered, That the Portland and Cape Elizabeth Railway Company be, and it is hereby permitted to give and surrender its location from the intersection of Cross and Free streets, in said Portland, thence through Cross street to its intersection with Fore street, and may be permitted to make the following additional location, to wit:

Beginning at said intersection of Cross and Fore streets, thence continuing its present railway from the said intersection of Cross street and Fore street on and through Fore street to the intersection of Fore street with Market street, thence on and through Market street to its intersection with Federal street, thence on and through Federal street to Monument square, thence on and through Monument square between the tracks of the Portland Railroad Company and the eastern side of Monument square to the southerly line of Congress street. (Passed October 7, 1895.)

**Permission Granted Cape Elizabeth Railway Company to  
Lay Tracks on Congress, Elm, Oxford and Preble  
Streets.**

SECTION 34. Ordered, That the Portland and Cape Elizabeth Railway Company be and is hereby permitted and granted the following additional location in the City of Portland, to wit:

Beginning on the southerly line of Congress street at the end of its present location in Monument square, thence continuing its present railroad from said southerly line of Congress street, across said Congress street to the northerly line of said Congress street, to the head of Elm street, and crossing the tracks of the Portland Railroad Company,

thence on and through said Elm street, on the westerly side of the center line thereof, as near as practicable to said center line, to the intersection of said Elm street with Oxford street, and the location in said Elm street of the Portland and Yarmouth Electric Railway Company granted September 12, 1895, is by and with the consent of the Portland and Yarmouth Electric Railway Company hereby changed from "through the center of Elm street to its intersection with Oxford street," to "through Elm street on the easterly side of the center line thereof as near as practicable to said center line to its intersection with Oxford street," and said location of said Portland and Cape Elizabeth Railway Company shall continue from said intersection of said Elm street with said Oxford street above referred to, on and through said Oxford street to its intersection with Preble street, thence on and through said Preble street to a point on said street distant twenty feet from the southerly side of the present southerly track of the Portland and Rochester Railroad, and to erect, set and maintain all such poles, wires, appliances and fixtures as are necessary for the proper operation of its said electric railroad, along and upon said above-named streets. (Passed April 6, 1896.)

(NOTE. For locations in wards eight and nine, see records of Deering and Westbrook.)

#### **Washington Avenue Bridge, City Required to Maintain.**

SECTION 35. The City of Portland shall keep and maintain the bridge over tracks and marginal way on Washington avenue, except that the planking between the rails of each of the electric railroads crossing the bridge shall be done at the expense of said railroad company.

(See Railroad Commissioners' Report for 1897, page 78.)

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#### **ORDINANCES.**

##### **Speed of Trains on Commercial Street Regulated.**

SECTION 1. No railroad engine, car or cars, whether separately, or in connection with any train, shall be allowed to pass on or over any part of Commercial street, in this city, at a speed exceeding the rate of six miles per hour. And all railroad corporations are hereby restricted and prohibited from passing on or over said street, with any locomotive engine, or car or cars, as aforesaid, at a speed exceeding the rate aforesaid.

(NOTE. For laying out of Commercial street, see City Records, book 7, page 210. The important contract of the city with the Atlantic and St. Lawrence Railroad Company, dated April 1, 1850, is



recorded in City Records, book 7, page 245, *et seq.* The following is the order of city council, November 7, 1850, laying out twenty-six feet on water side of center of said street, for the benefit of the railroad:

In Board of Mayor and Aldermen, }  
November 7, 1850. }

Whereas, By a contract entered into between the City of Portland and the Atlantic and St. Lawrence Railroad Company, on the first day of April, 1850, for the construction of Commercial street, and for other purposes, it is provided that said railroad company shall have the right to use and improve the space of twenty-six feet in width of the whole length of said Commercial street, and of any street now established or that may hereafter be established in connection therewith for the purpose of laying down and using a double railroad track, and running trains thereon from the depot of said railroad company on India street to the depot of the Portland, Saco and Portsmouth Railroad Company on Canal street, and for other purposes, and further, that said twenty-six feet shall be located in the center of said street, or on the water side thereof, as said city may direct, except where it may become necessary to make curves for the purpose of reaching or improving any depots now made or that hereafter be made, at the terminal aforesaid, or on the line of said street.

Therefore ordered, That said twenty-six feet be located on the water side of the center of said street, except where it may become necessary to make curves for the purpose of reaching depots now made or to be made; and at those points to be so located as shall best accommodate said railroad company and as said company may determine.

Read and passed and sent down for concurrence.

Read and passed in concurrence.

Attest:

WM. BOYD, *Clerk.*

A true copy. City Records, Vol. VII., page 244.)

### **Bells of Locomotives to Be Rung.**

SECTION 2. Every railroad corporation shall cause the bell of each locomotive engine to be rung, and kept ringing, during the whole time of its passing on or over said street, except when, to prevent accident, it may be necessary to break up or stop, in which case notice thereof shall be given by the steam whistle.

### **Brakemen to Be Attached to Brakes.**

SECTION 3. Every railroad corporation shall cause a suitable number of brakemen to be attached to the brakes of the several cars, and

shall cause all such brakemen to attend to, and promptly perform their appropriate duties, at their respective brakes, and to continue at said brakes while passing in said street.

### **Penalties.**

SECTION 4. If any railroad corporation, or their agents or servants, shall neglect or refuse to comply with any or either of the provisions contained in the three preceding sections, such corporation shall forfeit for every such neglect or refusal the sum of fifty dollars to the use of the city.

### **Articles to Be Unloaded on Southeast Side of Railroad Track — Not to Obstruct Streets Leading to, or Passage Ways.**

SECTION 5. All articles brought by railroad, to be landed on Commercial street, shall be landed on the south side of the railroad track, and any article landed in the street, either from or for the purpose of being loaded upon the cars, shall be so placed as not to obstruct any street crossing on Commercial street or connecting with it, and so as to leave a clear space not less than fourteen feet in length, from the coping stone, and shall not be allowed to remain in the street over six working hours after they are landed. Provided, however, that cars may be unloaded in stores, and loaded from stores, on the northwesterly side of said railroad track, after four o'clock in the evening.

### **Engines, Etc., Not to Obstruct Streets or Passage Ways.**

SECTION 6. No railroad engine, tender or car, whether separately or in a train, shall be allowed to stop on Commercial street in such a manner as to obstruct any street or passage way crossing Commercial street, or connected with it, nor to remain standing on any part of the street any longer time than is actually necessary for unloading or taking in the freight of such car or train.

### **Obstructions on Tracks.**

SECTION 7. Any person wilfully placing an obstruction of any kind upon the rails of any railroad company in the streets of this city shall be punished by fine not exceeding twenty dollars.

## **CHAPTER 86.**

# **RIOTS.**

### **Statutes.**

#### **Unlawful Assembly and Riot.**

SECTION 1. If three or more persons assemble in a violent or tumultuous manner to do an unlawful act, or, being together, make any attempt or motion towards doing a lawful or unlawful act in a violent, unlawful, or tumultuous manner, to the terror or disturbance of others, they are guilty of an unlawful assembly; if they commit such acts in the manner and with the effect aforesaid, they are guilty of a riot, and shall, in either case, be punished by imprisonment for less than one year, and by fine not exceeding five hundred dollars; and in case of a riot, each offender shall also suffer such punishment as he would be liable to if he had committed such act alone. (R. S., Chapter 123, Section 2.) 18 Me. 347, 26 Me. 69, 33 Me. 556, 34 Me. 236, 53 Me. 125, 536.

#### **One Person May Be Convicted without the Others.**

SECTION 2. Any person engaged in an unlawful assembly or riot, may be indicted and convicted thereof alone, if it is alleged in the indictment and proved at the trial that three or more were engaged therein; but if known, they must be named, and if unknown, that fact must be alleged. (Ib., Section 3.)

#### **Municipal Officers to Suppress Mobs — May Command Assistance.**

SECTION 3. When twelve or more persons, any of them armed with clubs or dangerous weapons, or thirty or more, armed or unarmed, are unlawfully, riotously or tumultuously assembled in any town, it shall be the duty of each of the municipal officers, constable, and justices of the peace thereof, and of the sheriff of the county and his deputies, to go among the persons so assembled, or as near to them as they can safely go, and in the name of the State command them immediately and peaceably to disperse; and if they do not obey, such magistrates and officers shall command the assistance of all persons present

in arresting and securing the persons so unlawfully assembled; and every person refusing to disperse, or to assist as aforesaid, shall be deemed one of such unlawful assembly, and be punished by fine not exceeding five hundred dollars, and imprisonment for less than one year; and each such magistrate or other officer, having notice of such unlawful assembly in his town, and refusing or neglecting to do his duty in relation thereto, as aforesaid, shall be punished by a fine not exceeding three hundred dollars. (Ib., Section 11.)

#### **When Rioters Refuse to Disperse, Etc.**

SECTION 4. When persons so riotously or unlawfully assembled, neglect or refuse, on command as aforesaid, to disperse without unnecessary delay, any two of the magistrates, or officers aforesaid, may require the aid of a sufficient number of persons in arms or otherwise, and may proceed in such manner as they judge expedient, to suppress such riotous assembly, and to arrest and secure the persons composing it; and when an armed force is thus called out, they shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which they receive from the governor, any justice or judge of a court of record, the sheriff of the county, or any two of the magistrates or officers mentioned in the preceding section. (Ib., Section 12.)

#### **If Any Person Is Killed or Wounded, Officers Held Guiltless, Etc.**

SECTION 5. If, in the efforts made as aforesaid to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, although the number remaining is less than twelve, any such persons, or any persons present as spectators or otherwise, are killed or wounded, said magistrates, officers, and persons acting with them by their order, shall be held guiltless and justified in law; but if any of said magistrates, officers, or persons thus acting with them, are killed or wounded, all persons so unlawfully or riotously assembled, and all other persons who refused when required, to aid such magistrates and officers, shall be answerable therefor. (Ib., Section 13.)

#### **Punishment for Pulling Down Houses or Premeditated Personal Injuries.**

SECTION 6. If any persons, thus unlawfully and riotously assembled, pull down, or begin to pull down, or destroy any dwelling house, building, ship or vessel; or perpetrate any premeditated injury, not a

felony, on any person, each shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars ; and shall also be answerable to any person injured, in an action of trespass to the full amount of damages by him sustained. (Ib., Section 14.) 63 Me. 48, 65 Me. 429.

### **Liability of Towns for Injury by Mobs, Etc.**

SECTION 7. When the injury to any property described in the preceding section amounts to fifty dollars or more, the town where such property is situated shall indemnify the owner thereof for three-fourths of the value of such injury, to be recovered in an action on the case, if he uses all reasonable diligence to prevent such injuries, and to procure the conviction of the offenders ; and the town paying such sum may recover it in an action on the case against the persons doing the injury. (Ib., Section 15.) 63 Me. 48, 65 Me. 429, 438.

## **ORDINANCES.**

### **In Case of Riot, Marshal and Officers to Repair to Place of Riot — To Use Power and Authority to Disperse Mob.**

SECTION 1. In case of any riot, or unauthorized and tumultuous collection of persons, within the limits of the city, it shall be the duty of the city marshal, deputy marshals, policemen, watchmen and constables of the city, as soon as they are informed of the same, to repair immediately to the place where said riot or tumult may be, and report themselves to the mayor, or in his absence to the city marshal, and they shall use all the power and authority vested in them by the ordinances of the city, or laws of this State, quickly to separate and disperse said mob or tumultuous collection of persons, or to arrest and bring them to trial for said offence, as the case may require, to protect the persons and property of the citizens from injury, and to do all other matters and things which may be commanded them by the mayor or city marshal.

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## **REGISTRATION OF VOTERS.**

(See "Elections," page 254.)

## CHAPTER 87.

# SCHOOLS.

(R. S., Chapter 11, as amended.)

### Statutes.

#### **School Districts Abolished — Exception in Case of Specially Chartered Districts — Provisions in Such Cases — Corporate Powers Necessary for Enforcement of Rights and Meeting Obligations, Continued.**

SECTION 1. The school districts in all towns in this State are hereby abolished. Provided, however, that school districts organized with special powers by Act of the legislature, may retain such organization and special powers; but said districts shall annually, on or before the first day of June, by their agents, trustees or directors, submit to the school committees of their several towns estimates of the amount required for the maintenance of the schools therein, other than free high schools, for the ensuing school year, and shall be entitled to such portion of the common school funds of the town as said committees shall determine, which sum shall not be less than is necessary for the maintenance of their schools for a period equal to that of the other schools of the town.

The corporate powers of every school district shall continue under this Act so far as the same may be necessary for the meeting of its liabilities and the enforcing of its rights; and any property held in trust by any school district by virtue of a gift, devise or bequest for the benefit of said district shall continue to be held and used according to the terms thereof. (Comprising P. L., 1893, Chapter 216, Sections 1 and 4.)

#### **Town to Take Possession of School Property — Appraisal Thereof, to Be Made — Tax Therefor to Be Assessed — Remittance, to Be Made to Tax Payers of Each District — Procedure, in Case of Districts Comprising Parts of Two or More Towns.**

SECTION 2. Immediately after this Act shall have become a law, towns shall take possession of all schoolhouses, lands, apparatus and

other property owned and used by the school districts hereby abolished, which districts may lawfully sell and convey. The property so taken shall forthwith be appraised by the assessors of said towns, and at the first annual assessment thereafter a tax shall be levied upon the whole town, or such part thereof as is included within the districts abolished, equal to the whole of said appraisal, and there shall be remitted to the tax payers of each of said districts the said appraised value of its property so taken. In case of districts comprising parts of two or more towns, the assessors of said towns shall jointly appraise the school property belonging to said districts, and shall determine the part thereof belonging to each of the said towns, and each town shall remit to the tax payers in its part of such district the part so determined, in the same manner as in case of districts wholly within said town; except that cities or towns, which have or shall reimburse districts or parts of districts for their school property, shall receive for the use of such city or town, the money to which such districts or parts of districts shall be entitled under this Act. (P. L., 1893, Chapter 216, Section 2.)

**No School Abolished, or Location Thereof Changed, Except by Vote of Town on Recommendation of School Committee — School Committee May Suspend Small Schools — Any School Having an Average of Less Than Eight Is Discontinued Unless Continued by Vote of the Town — Superintendent of Schools Must Procure Conveyance of All Scholars Who Reside So Far from Schools as to Render It Necessary, or May Board Scholars near School.**

SECTION 3. This Act shall not abolish or change the location of any school legally established at the time of its passage; but any town at its annual meeting, or at a meeting called for the purpose, may determine the number and location of its schools, and may discontinue them or change their location; but such discontinuance or change of location shall be made only on the written recommendation of the superintending school committee, and on conditions proper to preserve the just rights and privileges of the inhabitants for whose benefit such schools were established, provided, however, that in any case of any school having, as now established, or which shall hereafter have, too few scholars for its profitable maintenance, the superintending school committee may suspend the operation of such school for not more than one year, unless otherwise instructed by the town, but any public school failing

to maintain an average attendance for any school year, of at least eight pupils, shall be and hereby is suspended, unless the town in which said school is located shall by vote instruct its superintending school committee to maintain said school. The superintendent of schools, in each town, shall procure the conveyance of all public school pupils residing in his town, a part or the whole of the distance to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from the said schools as in the judgment of the superintending school committee shall render such conveyance necessary. Provided, however, that the superintending school committee may authorize the superintendent of schools to pay the board of any pupil or pupils at a suitable place near any established school, instead of providing conveyance for said pupil or pupils, when in their judgment it may be done at an equal or less expense than by conveyance. (P. L., 1893, Chapter 216, Section 3, as amended by P. L., 1897, Chapter 295, P. L., 1899, Chapters 48 and 74, P. L., 1901, Chapter 203.)

**Schools Shall All Be of Same Length, and Not Less Than Twenty Weeks Per Year — Penalty for Failure to Thus Maintain Schools.**

SECTION 4. The school moneys of every town shall be so expended as to give as nearly as practicable the same aggregate annual length of terms in all its schools, and every town shall make provision for the maintenance of all its schools for not less than twenty weeks annually. Any town failing to maintain its schools, as provided in this section, shall be debarred from drawing its State school moneys, till it shall have made suitable provisions for so maintaining them thereafter. (P. L., 1893, Chapter 216, Sections 5 and 6.)

**Union Schools May Be Maintained — Manner of Support — Management.**

SECTION 5. Adjoining towns, upon the written recommendation of the school committee of said towns, may by concurrent action maintain union schools for the benefit of parts of said towns in what are now union school districts, or may establish such schools, and shall contribute to their support each in proportion to the number of scholars in each of said towns attending such schools. Said schools shall be under the management of the school committee of the town in which their schoolhouses are located. (Ib.)



**Towns to Raise for Schools Eighty Cents Per Inhabitant — Penalty.**

SECTION 6. Every town shall raise and expend, annually, for the support of schools therein, exclusive of the income of any corporate school fund, or of any grant from the revenue of funds from the State, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of schools, not less than eighty cents for each inhabitant, according to the census by which representatives to the legislature were last apportioned, under penalty of forfeiting not less than twice nor more than four times the amount of its deficiency.

**School Fund and Mill Tax to Be Withheld from Delinquent Towns.**

SECTION 7. When the governor and council have reason to believe that a town has neglected to raise and expend the school money required by law, or to examine teachers as prescribed by law, or to have instruction given in the subjects prescribed by law, or to provide suitable text-books in the subjects prescribed by law, or faithfully to expend the school money received from the State, they shall direct the treasurer of State to withhold further payment to such town from the State school fund and mill tax until such town satisfies them that it has expended the full amount of school money required by law. (As amended by P. L., 1899, Chapter 64.)

**Towns Shall Provide Schoolbooks for Both Common and Free High Schools — Repairs, Insurance, Etc., Cannot Be Paid for from School Fund.**

SECTION 8. Towns shall provide schoolbooks, apparatus and appliances for the use of the pupils in the public schools, including all free high schools, at the expense of said town; and shall also pay for the necessary repairs of school buildings and insurance on same, if any, improvement and maintenance of school yards and playgrounds out of a sum or sums of money raised and appropriated for that purpose which shall be assessed like other moneys; provided, however, that any parent or guardian of any pupil in the public schools may, at his own expense, procure for the separate and exclusive use of such pupils the text-books required to be used in such schools. (As amended by P. L., 1889, Chapter 268, and further amended by P. L., 1897, Chapter 260.)

**Distribution and Preservation of Books.**

SECTION 9. School committees shall make such rules and regulations not repugnant to law, as they deem proper, for the distribution and preservation of school books and appliances furnished at the expense of the town. (As amended by P. L., 1889, Chapter 268.)

**Schoolbooks, Damages for Injuring or Destroying, How Recovered of Parent, Etc.**

SECTION 10. When a pupil in the public school loses, destroys, or unnecessarily injures any such school book or appliance furnished such pupil at the expense of said town, his parent or guardian shall be notified, and if the loss or damage is not made good to the satisfaction of such committee within a reasonable time, they shall report the case to the assessors, who shall include in the next town tax of the delinquent parent or guardian the value of the book or appliance so lost, destroyed or injured, to be assessed and collected as other town taxes.

**Cities and Towns May Instruct in Industrial or Mechanical Drawing, and May Support Evening Schools.**

SECTION 11. Any city or town may annually make provision for free instruction in industrial or mechanical drawing to persons over fifteen years of age, either in day or evening schools, under direction of the superintending school committee. Cities and towns may raise and appropriate money for the support of evening schools in addition to the sum they raise for the support of common schools. Said evening schools shall admit persons of any age, shall teach only the elementary branches, and shall be under the direction and supervision of the local school board. (As amended by P. L., 1889, Chapter 246.)

SECTION 12. Repealed by Public Laws of 1893, Chapter 216.

**Certificate of Cities, Towns, Etc., to Be Returned Annually to State Superintendent—Amount Voted by Town—Payable from State—Expended for Schools—Unexpended.**

SECTION 13. The assessors or municipal officers of each town shall, on or before the first day of each May, make to the State superintendent of public schools, a certificate, under oath, embracing the following items: (As amended by P. L., 1897, Chapter 237.)

I. The amount voted by the town for common schools at preceding annual meeting.

II. The amount of school moneys payable to the town from the State treasury during the year ending with the first day of the preceding April.

III. The amount of money actually expended for common schools during the last school year.

IV. The amount of school moneys unexpended, whether in the town treasury or in the hands of district agents.

V. Answers to such other inquiries as are presented to secure a full and complete statement of school revenues and expenditures.

**Blanks Furnished to Towns — Superintendent to Make Return to State Treasurer — Money Withheld from Delinquent Towns.**

SECTION 14. The State superintendent shall prepare and furnish to the town officers such blanks as he deems proper to secure the fiscal returns required in the preceding section. He shall return to the treasurer of State on the first day of July, annually, a list of such towns as have made such fiscal returns; and no school moneys shall be paid by the treasurer of State to any town, so long as it neglects to make such returns.

SECTIONS 15, 16. Repealed by Public Laws of 1893, Chapter 216.

**School Money, How Paid by Towns — How Vouched.**

SECTION 17. No money appropriated by law for public schools shall be paid from the treasury of any town, except upon the written order of its municipal officers; and no such order shall be drawn by said officers except upon presentation of a properly vouched bill of items.

**Town to Choose Superintending School Committee — Sex, no Test of Eligibility.**

SECTION 18. Every town shall choose by ballot, at its annual meeting, a superintending school committee of three, to hold office as provided in Section 86, and shall fill vacancies arising therein at each subsequent annual meeting. No person is ineligible to the office of superintending school committee on account of sex. (As amended by P. L., 1893, Chapter 216, and further amended by P. L., 1897, Chapter 327.)

SECTION 19. Repealed by Public Laws of 1893, Chapter 216.

**Neglect to Choose Committee or Superintendent.**

SECTION 20. A town failing to elect members of superintending school committee, as required by law, forfeits not less than thirty, nor more than two hundred dollars. (As amended by P. L., 1893, Chapter 216.)

**Right to Attend School, Defined — Scholars at Light Stations Provided for — Truants, Towns to Make By-Laws Concerning — Penalty.**

SECTION 21. The age of pupils allowed to attend the public schools of this State is hereby fixed between the ages of five and twenty-one years of age. Any person between the age of five and twenty-one years living at any light station not embraced within the limits of any school district, shall be admitted to any public school in this State without paying tuition. Such scholars shall be entitled to all privileges and benefits, and be subject to the same conditions, rules and regulations, as scholars residing in the district in which they attend school. Towns may make such By-laws, not repugnant to law, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but such By-laws must be first approved by a judge of the Supreme Judicial Court. (As amended by P. L., 1893, Chapters 162 and 199.)

**Who Shall Complain of Violation of By-Laws.**

SECTION 22. Such towns shall, at their annual meeting, appoint one or more persons, who alone shall make complaints for violations of said By-laws, and shall execute the judgments of the magistrate.

**Truant Children, in Suitable Institutions.**

SECTION 23. Said magistrate, in place of fine, may order children proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods as he thinks expedient, in the institution of instruction, house of reformation, or other suitable situation provided for the purpose, under Section 21.

## COMPULSORY EDUCATION.

**Children between Ages of Seven and Fourteen Years Shall Attend Public School during Time School Is in Session — Instruction at Private School Allowed — Penalty for Neglect — Children May Attend School in Adjoining Town.**

SECTION 24. Every child between the ages of seven and fourteen inclusive, shall attend some public day school during the time such school is in session; provided that necessary absence may be excused by the superintending school committee or superintendent of schools or teacher acting by direction of either; provided, also, that such attendance shall not be required if the child obtained equivalent instruction, for a like period of time, in an approved private school or in any other manner approved by the superintending school committee; provided, further, that children shall not be credited with attendance at a private school until a certificate showing their names, residences and attendance at such school signed by the person or persons having such school in charge, shall be filed with the school officials of the town in which said children reside; and provided further, that the superintending school committee may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend. All persons having children under their control shall cause them to attend school as provided in this section, and for every neglect of such duty shall forfeit a sum not exceeding twenty-five dollars, to the treasurer of the city or town or shall be imprisoned not exceeding thirty days.

Children living remote from any public school in the town in which they reside may be allowed to attend the public schools in an adjoining town, under such regulations and on such terms as the school committees of said towns agree upon and prescribe, and the school committee of the town in which such children reside shall pay the sum agreed upon, out of the appropriations of money raised in said town for school purposes. Except as above provided, a child attending a public school in a town in which his parent or legal guardian does not reside, after having obtained the consent of the school committee of such town, shall pay, as tuition, a sum equal to the average expense per scholar in such school. (P. L., 1899, Chapter 80, as amended by P. L., 1901, Chapter 185.)

**Cities and Towns Shall Elect Truant Officers — Duties —  
Penalty for Neglect — Compensation of Truant Offi-  
cers — Committee May Fill Vacancies.**

SECTION 25. Cities and towns shall annually elect one or more persons, to be designated truant officers, who shall inquire into all causes of neglect of the duties prescribed in Section 1 and ascertain the reasons therefor, and shall promptly report the same to the superintending school committee, and such truant officers, or any of them shall, when so directed by the school committee or superintendent in writing, prosecute in the name of the city or town, any person liable to the penalty provided in said section; and said officers shall have power, and it shall be their duty, when notified by any teacher that any pupil is irregular in attendance to arrest and take such pupil to school when found truant; and further it shall be the duty of such officers to enforce the provisions of Sections 114 to 116, inclusive, of Chapter 11 of the Revised Statutes. Every city or town neglecting to elect truant officers, and truant officers neglecting to prosecute when directed, as required by law, shall forfeit not less than ten nor more than fifty dollars, to the use of the public schools in the city or town neglecting as aforesaid, or to the use of the public schools in the city or town where such truant officer resides.

The municipal officers shall fix the compensation of the truant officers, elected as prescribed in this section. Superintending school committees shall have power to fill vacancies occurring during the year. (As amended by P. L., 1899, Chapter 80.)

**Habitual Truant Defined, How Punished — Persons Encouraging Truancy, How Punished — Habitual Truant May Be Sent to Reform School or Industrial School for Girls.**

SECTION 26. If a child, without sufficient excuse, shall be absent from school at six or more consecutive sessions during any term, he shall be deemed an habitual truant, and the superintending school committee shall notify him and any person under whose control he may be that unless he conforms to Section 1 of this Act, the provisions of the two following sections will be enforced against them; and if thereafter such child continues irregular in attendance, the truant officers or any of them shall, when so directed by the school committee or superintendent in writing, enforce said provisions by complaint.

Any person having control of a child who is an habitual truant, as defined in the foregoing section, and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent shall forfeit not exceeding twenty dollars, for the use of the public schools of the city or town in which such child resides, to be recovered by the truant officer on complaint, or shall be imprisoned not exceeding thirty days.

On complaint of the truant officer, an habitual truant, if a boy, may be committed to the State reform school, or, if a girl, to the State industrial school for girls, or to any truant school that may hereafter be established.

### **Jurisdiction of Officers.**

SECTION 27. Police or Municipal Courts and trial justices shall have jurisdiction of the offences described in Sections 24, 25 and 26.

### **FREE HIGH SCHOOLS.**

### **State Aid to Free High School — Amount — Proviso — How Paid — Proviso.**

SECTION 28. Any town which establishes and maintains a free high school as provided by this section and the seven following, for at least ten weeks in any one year, shall, on complying with the conditions hereinafter set forth, receive from the State one-half the amount actually expended for instruction in said school, not exceeding two hundred and fifty dollars; provided, that no town shall receive such State aid unless its appropriation and expenditure for such school, has been exclusive of the amounts required by law for common school purposes. Such aid shall be paid from the State treasury on and after the first day of each January, upon certification by the governor and council as provided by Section 35. But whenever a town or precinct desires to draw its State aid semi-annually, it shall be paid on and after the first days of July and January; provided, that the superintendent of such town makes, semi-annually, before said days, the report required in Section 35. (As amended by P. L., 1893, Chapter 216, P. L., 1901, Chapter 197.)

**Free High Schools, Any Town May Establish Two—Adjoining Towns May Maintain School—Precincts, May Be Organized and Established—Proviso—Precincts, How Organized—Sections of Adjoining Towns, May Organize Precincts, and Maintain Schools—Town Shall Receive and Expend Donations and Bequests—May Receive Funds from Academies—Penalty for Misapplying Money Appropriated by State.**

SECTION 29. Any town may establish and maintain not exceeding two free high schools, and in such case shall receive the same State aid as if the expenditures of both schools had been made for one. Two or more adjoining towns may unite in establishing and maintaining a free high school, and both shall receive the same State aid as if such school had been maintained by one town. So long as any town declines to avail itself of the foregoing provisions, the inhabitants of any section of said town may organize a free high school precinct in the manner hereinafter provided, which may establish and maintain a free high school, and receive State aid the same as the town might have done; provided, that no more than two such free high schools shall be established in any town, and that the amount of aid extended to the precincts in any town shall not exceed the sum that the town might have received. On petition of any five voters resident in said section, reciting the limits of the precinct proposed, the municipal officers of the town shall call a meeting of the voters within said limits by causing notices, specifying the time, place and purposes of said meeting, seven days before the time appointed, to be posted in two or more conspicuous places within said limits. Said meeting shall choose a moderator and a clerk who shall be sworn, and shall, by a majority vote of those present and voting, determine whether said precinct shall be organized. It shall choose an agent who shall be duly sworn, whose powers and duties shall be as hereinafter defined. Such precinct may continue its organization from year to year by the holding of meetings called in the manner aforesaid, so long as the town shall neglect or refuse to support free high schools. Sections of adjoining towns may organize as herein provided and may establish and maintain a union free high school, and, with the consent of both towns, may receive a proportional part of such aid, to be determined as provided by Section 35, but in no case to exceed the amount that either town might have received. But no more than two such precincts shall exist at the same time in any town. Moneys voted by said precincts shall be assessed and collected in the manner now pro-



vided for assessment and collection of moneys voted by school districts. Towns shall receive in trust and faithfully expend gifts and bequests made to aid in the maintenance of free high schools, and shall receive aid in such cases to the same extent and on the same conditions as if such schools had been established and maintained by taxation; and any town or district shall receive such State aid on any expenditure for a free high school or schools, made from the funds or proceeds of the real estate of an academy or incorporated institution of learning, surrendered or transferred to such town or district for educational purposes; but if any part of the money so paid by the State is expended for any other purpose than the support of such free high schools, as provided by this section, then each person so misapplying said money forfeits double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant thereof; and no town shall receive further support from the State for any free high school, until the amount so received, but misapplied, has been raised and expended for such free high schools by such town. (As amended by P. L., 1893, Chapter 216.)

**Location — Schoolrooms, Etc., How Supplied and Furnished — Proviso.**

SECTION 30. Any town, or union of towns, precinct, or union of precincts, voting to establish a free high school, as herein provided, may locate the same permanently, or vote that the terms thereof be held alternately in such sections or precincts within the town or towns as may be selected, and as may accept said school. The precinct in which said school is thus held shall supply appropriate equipments, and furnish a warm and suitable building for the same; provided that such precinct may use its schoolhouse or schoolhouses for such free high school, when not required for ordinary school purposes. (As amended by P. L., 1893, Chapter 216.)

**Course of Study, What It Shall Embrace — Exception — Schools to Be Free to Scholars within Precinct — Open to Scholars in Town and without Precinct, by Payment of Tuition — Superintending School Committees May Admit Pupils from without Town on Payment of Tuition.**

SECTION 31. The course of study in the free high schools shall embrace the ordinary English academic studies which are taught in secondary schools, especially the natural sciences in their application to

mechanics, manufactures and agriculture; but the ancient or modern languages and music shall not be taught therein except by direction of the superintending school committees having supervision thereof. Such schools, when established by any town or union of towns, shall be free to all the youth in such town or towns who have such scholastic attainments as will fit them to attend such schools with profit, and the superintendent, or superintending school committee, having supervision thereof, shall make such examination of candidates for admission to said schools as they consider necessary. When such school is established by any precinct or union of precincts, it shall be free in the same manner to the scholars within such precincts, and open also to scholars passing the required examination from without such precincts, but within the towns in which said precincts are situated, on payment to the agent of the precinct in which such school is located, of such tuition, to be fixed by the superintending school committee or committees having supervision of the same, as is equivalent to the cost of a scholar of maintaining such school, after deducting the aid extended by the State. Whenever in the judgment of the superintending school committees having the supervision of any free high school or schools, the number of pupils in the same may be increased without detriment, scholars from without the towns directly interested in such school or schools, may be admitted to the same on passing the required examination and paying such tuition as may be fixed by such committee, to the treasurer of the town in which the school is kept, when the school is maintained by a town or union of towns, or to the agent of the precinct in which the school is kept, when such school is maintained by a precinct or union of precincts. (As amended by P. L., 1887, Chapter 100; P. L., 1889, Chapter 212; P. L., 1893, Chapter 216; P. L., 1897, Chapter 299.)

**Free High Schools Subject to the School Laws, except in Certain Cases—Established by Towns, How Managed—  
Established by Union of Towns—Established by Districts—Established by Precincts in Different Towns.**

**SECTION 32.** Free high schools, established and maintained under the foregoing provisions, are subject to the laws relating to common schools, so far as applicable, except as otherwise provided. When established and maintained by a town, they shall be under the supervision and entire management of the superintending school committee of such town. When established and maintained by a union of towns,

such school shall be under the supervision and entire management of the school committees of such towns, who constitute a joint board for that purpose. When established and maintained by any precinct or union of precincts in the same town, such schools shall be under the supervision of the superintending committee of such town, or of the state superintendent, when the precinct or precincts so elect, and under the financial management of the agent of the precinct in which such school is kept, who, in connection with said committee or superintendent, shall employ teachers for the same. When established and maintained by two precincts in different towns, such school shall be under the supervision of the superintending school committees of such towns, who constitute a joint board for that purpose, and under the financial management of the agents of both precincts, who, in connection with said committees, shall employ the teachers. (As amended by P. L., 1893, Chapter 216.)

#### **Towns May Raise Money to Maintain Free High Schools.**

SECTION 33. Towns and precincts may raise money for establishing and maintaining free high schools and erecting buildings and providing equipments for the same, in the same manner as for supporting common schools and erecting schoolhouses. (Ib.)

#### **Towns May Contract with and Pay Academies for Tuition of Scholars — Joint Committee Provided for — Entitled to State Aid for Expenditure.**

SECTION 34. Any town may from year to year authorize its superintending school committee to contract with and pay the trustees of any academy in said town for the tuition of scholars within such town, in the studies contemplated by the six preceding sections, under a standard of scholarship to be established by such committee; and when such contract has been made, the school committee with an equal number from the board of trustees of such academy shall form a joint committee for the selection of all teachers, and the arranging of the course of study in such academy, when such academy has less than ten thousand dollars endowment; and the expenditure of any town for tuition in such academy shall be subject to the same conditions, and shall entitle such towns to the same State aid as if it had made such expenditure for a free high school. (As amended by P. L., 1889, Chapters 6 and 167.)

**Superintendents to Make Annual Return to State Superintendent — State Superintendent to Certify Amounts to Which Towns Are Entitled — Governor and Council to Certify Amounts to Treasurer — Penalty for Defrauding State.**

SECTION 35. Superintendents shall, annually, before the first day of July, make returns under oath to the State superintendent, on blanks prepared and sent out by him, of the amount appropriated and the amount expended by each town or precinct for instruction in such free high schools during the current year; also of the amount appropriated and the amount expended for common school purposes by each town maintaining the same; the number of weeks during which such schools have been taught; the wages paid each teacher; the number of pupils registered; the average attendance; the number of pupils in each branch of study pursued, and the amount received for tuition. If the State superintendent is satisfied that the provisions of the seven preceding sections have been complied with, he shall certify to the governor and council the sum which each town or precinct is entitled to receive from the State. Any town or precinct, dissatisfied with his decision, may appeal to the governor and council. The governor and council shall issue a certificate to the treasurer of the town, or agent of the precinct, for such amount as they adjudge such town or precinct entitled to receive from the State treasury. Any person connected with the management of such free high schools, either as teacher, agent or superintendent, who in any way aids or abets in defrauding the State into the payment in support of said schools of more than is contemplated by this chapter, shall forfeit not less than five hundred dollars, or be imprisoned in the county jail not less than one year. (As amended by P. L., 1893, Chapter 216, and P. L., 1901, Chapter 197.)

**Trustees of Academies, Etc., May Surrender Property to Establish Free High Schools — Trustees of Free High Schools, Duties of.**

SECTION 36. The trustees of any academy or other corporation formed for educational purposes may by a majority vote of such of said trustees as reside in the State, surrender the whole, or any part of the property belonging thereto, to the municipal officers of any town, or the trustees of any school fund in any town in which said academy or corporation is situated, for turning the same into a free high school as hereinafter provided, and said municipal officers or trustees, for the

time being, shall be a board of trustees to take and hold said property for maintaining a free high school; and upon receiving said property, they shall use proper diligence to make the same produce income for the support of said free high school.

### **Property, How Conveyed.**

SECTION 37. When such vote is so passed, the treasurer of said trustees shall convey, assign and deliver to the municipal officers of said town, or the trustees of such fund, all property belonging to said academy or corporation, for the purposes indicated by the preceding section.

### **Income of Property, How Applied — Qualification of Pupils, How Determined.**

SECTION 38. The municipality accepting the property in trust, as named in Section 36, shall apply the income thereof towards the support of a free high school, to be kept within said municipality, at least twenty-two weeks in each year, and provide suitable accommodations for the same, and the superintending school committee or superintendent in said municipality, shall determine the qualifications necessary to entitle any applicant to enter or attend said free high school, and no one shall attend it without the certificate of said officers to that effect.

### **Tuition, to Be Paid by Non-Residents.**

SECTION 39. All scholars residing within the municipality aforesaid, having such certificate, may attend said school without tuition fee, and all scholars not residents of said municipality, may attend said school upon such terms and conditions as said school officers impose.

### **POWERS AND OBLIGATIONS OF SCHOOL DISTRICTS.**

SECTIONS 40 to 55 inclusive. Repealed by Public Laws of 1893, Chapter 216, except so far as applicable to districts not abolished by Section 1 of said chapter, and to precincts formed for maintenance of free high schools, under provisions of Section 7 of said chapter.

## SCHOOLHOUSES, LOCATION AND ERECTION OF.

**Location for Schoolhouses Shall Be Designated by Vote of Town.**

SECTION 56. The location for the erection or removal of schoolhouses and requisite buildings and for playgrounds shall be designated by vote of the town at any town meeting called for that purpose. (As amended by P. L., 1893, Chapter 216.)

**Town May Lay Out Schoolhouse Lots in Certain Cases — Damages, How Appraised — How Paid — Lots to Revert to Owner If Not Occupied for Two Years — Land May Be Taken for Schoolhouse Lots, Playgrounds, Etc., Not within Fifty Feet of a Dwelling.**

SECTION 57. When a location for the erection or removal of a schoolhouse and requisite buildings has been legally designated, and the owner thereof refuses to sell, or, in the opinion of the municipal officers, asks an unreasonable price for it, or resides without the State, and has no authorized attorney or agent therein, they may lay out a schoolhouse lot, not exceeding three acres, and appraise the damages, as is provided for laying out town ways and appraising the damages therefor; and on payment or tender of such damages, or if such owner does not reside in the State, upon depositing such damages in the treasury of such town or district for his use, the town or district designating it may take such lot to be held and used for the purposes aforesaid; and when such schoolhouse has ceased to be thereon for two years, said lot reverts to the owner, his heirs or assigns. And any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a schoolhouse and requisite buildings and playgrounds, as herein provided; but no real estate shall be so taken within fifty feet of a dwelling house. (As amended by P. L., 1901, Chapter 211.)

**Owners Aggrieved, Issue May Be Tried by Jury.**

SECTION 58. If the owner is aggrieved at the location of the lot, or the damages awarded, he may apply to the county commissioners within six months, who may change the location and assess the damages, and the proceedings shall be conducted as in Section 8, of Chapter 18. If the damages are increased, or the location changed, such town shall pay the damages and costs; otherwise the costs shall be paid by the

applicant. (As amended by P. L., 1893, Chapter 216, and P. L., 1901, Chapter 211.)

**Schoolhouse Lots, Erroneous Location of Re-established and Made Valid.**

SECTION 59. Any town which, by its officers or by a committee, has designated, located and described a lot upon which to erect, move or repair a schoolhouse, and from mistake or omission has failed to comply with the law, whereby such location has been rendered invalid, may, on petition of three legal voters and taxpayers thereof, apply in writing to the selectmen of said town, and have the lot, so designated or described, reappraised by them. (Ib.)

**Notice of Appraisement and Hearing to Be Given.**

SECTION 60. The selectmen of any town to whom such application has been made, shall forthwith give not less than seven nor more than twenty days' notice, to the owner of such real estate, or to the persons having the same in charge, of the time and place by them fixed for such hearing, and shall, after examination and hearing of all interested, appraise the lot as set out and affix a fair value thereon, exclusive of improvements made by said town either by buildings or otherwise; and shall, as soon as practicable, notify the persons interested in said estate who had been notified as hereinbefore provided, of the sum at which said lot has been appraised. (Ib.)

**Sum, How Assessed and Collected.**

SECTION 61. The sum fixed as the value of said lot shall be assessed, collected and paid over as provided in Section 58.

**Tender, to Be Allowed in Payment.**

SECTION 62. Any sum which has been tendered and is in the hands or under the control of the person owning or having charge of such land, shall be allowed in payment of said appraisal.

**Land Owners May Appeal.**

SECTION 63. If the persons owning or having charge of the land on which such location is made, are dissatisfied with such appraisal, either party may within ten days appeal to the county commissioners of the county in which the land lies, by filing a copy of the proceedings and a claim of appeal with said commissioners, and the determination of a majority of said commissioners shall be final. (As amended by P. L., 1893, Chapter 216.)

**Improvements, Inure to Town or District.**

SECTION 64. When any town has erected or moved a building upon such lot or in any way improved the same, such improvement shall inure to the benefit of such town, and the same may be as completely occupied and controlled by such town as it would have been if such location had been in strict conformity to law.

**Tax Not Affected by Error in Location.**

SECTION 65. The legality of a tax assessed to build, repair or remove a schoolhouse and to pay for a lot, shall not be affected by any mistake or error in the designation or location thereof.

**Plan to Be Approved by Superintending School Committee.**

SECTION 66. A plan for the erection or reconstruction of a schoolhouse voted by a town shall first be approved by the superintending school committee. (Ib.)

SECTIONS 67 to 84, inclusive. Repealed, except as applicable to districts not abolished by P. L., 1893, Chapter 216, Section 1, and to precincts formed under provisions of Section 7 of said chapter for the maintenance of free high schools.

**POWERS AND DUTIES OF SUPERINTENDING SCHOOL COMMITTEES AND SUPERINTENDENTS.****Officers to Be Sworn.**

SECTION 85. Members of superintending school committees shall be sworn. (As amended by P. L., 1893, Chapter 216 and further amended by P. L., 1897, Chapter 327.)

**Terms of Office, How Fixed — Vacancies, How Filled.**

SECTION 86. School committees at their first meeting shall designate by lot a member or members to hold office for one, two and three years, respectively, in manner as follows: one for one year, one for two years and one for three years; and they shall certify such designation to the town clerk to be by him recorded. Said committee shall have power to fill vacancies occurring during the interim between annual meetings, and the term of office of any member of the committee so chosen shall expire at the next annual town meeting. No member of the superintending school committee of any town shall be employed as a teacher in any public school in said town. (Ib.)



**SECTION 87.** The management of the schools and the custody and care of all school property in every town shall devolve upon a superintending school committee which shall perform the following duties: (See Section 129.)

**Appoint Time and Place for Examination of Teachers — School Week and Month.**

I. They shall appoint suitable times and places for the examination of candidates proposing to teach in town, and shall give notice thereof by posting the same in two or more public places within the town at least three weeks before the time of said examination, or by the publication of said notice for a like time in one or more newspapers having the largest circulation in the county. They shall employ teachers for the several districts in the town. Five days constitute the school week, and four weeks a school month. (As amended by P. L., 1893, Chapter 216.)

**Instructors of Youth, Examination of.**

II. On satisfactory evidence that a candidate possesses a good moral character, and a temper and disposition suitable to be an instructor of youth, they shall examine him in reading, spelling, English grammar, geography, history arithmetic, bookkeeping, civics and physiology, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system; and the elements of the natural sciences, especially as applied to agriculture, and such other branches as they desire to introduce into public schools, and particularly into the school for which he is examined; also as to his capacity for the government thereof. (As amended by P. L., 1891, Chapter 32, and P. L., 1885, Chapter 267.)

**Certificate to Teachers.**

III. They shall give to each candidate found competent a certificate that he is qualified to govern said school and instruct in the branches above named, and such other branches as may be necessary to be taught therein; or they may render valid by indorsement any graded certificate issued to teachers by normal school principals, or the State superintendent. No certificate shall be granted any person to teach in the public schools of this State after July 4, 1885, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics, upon the human system. (As amended by P. L., 1885, Chapter 267.)

**Direct Course of Instruction and Text-Books — Purchase and Preservation of Books.**

IV. Direct the general course of instruction, and select a uniform system of text-books, due notice of which shall be given; any text-book thus introduced shall not be changed for five years unless by a vote of the town; any person violating this provision shall forfeit not exceeding five hundred dollars, to be recovered in an action of debt by any school officer or person aggrieved. And when said committee shall have made such selection of schoolbooks they shall contract, under Section 8, with the publishers, for the purchase and delivery thereof, and make such rules as they deem effectual for their preservation and return. (Ib.)

**Make Provisions for Instruction in—Effects of Alcoholic Drinks, Etc.**

V. They shall make provisions for instructing all pupils in all schools supported by public money, or under State control, in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics, upon the human system. (Ib.)

**May Dismiss Teachers for Sufficient Cause.**

VI. After due notice and investigation they shall dismiss any teacher, although having the requisite certificate, who proves unfit to teach, or whose services they deem unprofitable to the school; and give to said teacher a certificate of dismissal and of the reasons therefor, a copy of which they shall retain, which shall not deprive the teacher of compensation for previous services. (As amended by P. L., 1893, Chapter 216.)

**Expel Scholars.**

VII. Expel any obstinately disobedient and disorderly scholar, after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school; and restore him on satisfactory evidence of his repentance and amendment.

**Exclude Scholars Not Vaccinated.**

VIII. Exclude, if they deem it expedient, any person not vaccinated, although otherwise entitled to admission.

IX. Repealed by Public Laws of 1893, Chapter 216.

X. Repealed by Public Laws of 1893, Chapter 199.

**Classify Scholars.**

XI. Determine what description of scholars shall attend each school, classify them, and transfer them from school to school where more than one school is kept at the same time. (Ib.)

**Shall Annually Elect Superintendent.**

XII. They shall annually elect a superintendent of schools who shall not be a member of the committee, who shall be *ex officio* secretary of the committee. Said superintendent shall perform the following duties:

**Duties of Superintendent Not a Member of Committee.**

(1.) He shall make in April, annually, a certified list of the names and ages of all persons in his town, from four to twenty-one years, corrected to the first day of said month, leaving out of said enumeration all persons coming from other places to attend any college or academy, or to labor in any factory, or at any manufacturing or other business.

(2.) He shall examine the schools and inquire into the regulations and discipline thereof and the proficiency of the scholars, for which purpose he shall visit each school at least twice each term.

(3.) He shall make all reports and returns relating to the schools of the town which are now or may be required by law to be made by superintending school committees.

(4.) He shall perform such other duties as said committee shall direct. (As amended by P. L., 1893, Chapter 216, and P. L., 1897, Chapter 332.)

**Annual Statement.**

SECTION 88. The superintendent of schools shall annually make a statement containing the following particulars:

**Amount of Money Raised and Expended.**

I. The amount of money raised and expended for the support of schools, designating what part is raised by taxes, and what part from other funds, and how such funds accrued.

**Number of Children.**

II. The number of children between four and twenty-one years of age, belonging to his town on the first day of April preceding.

**Return of Scholars.**

III. The whole number and the average number of scholars attending the summer schools; the whole number and the average, attending the winter schools, also the total number of different scholars attending school two weeks or more of the preceding year, as shall appear from the teachers' registers returnable to said officer agreeably to Section 96.

**Length of Schools.**

IV. The average length of the summer schools in weeks; the average length of the winter schools in weeks; and the average length of the schools for the year.

**Teachers.**

V. The number of male, and of female teachers employed in the public schools during any part of the year.

**Wages of Teachers.**

VI. The wages of male teachers a month, and the wages of female teachers a week, exclusive of board. (As amended by P. L., 1893, Chapter 216.)

**Returns to Superintendent of Public Schools.**

VII. He shall give in his returns the number of persons between the ages of four and twenty-one years, corrected to the first day of April preceding, the time of making said returns, and full and complete answers to the inquiries contained in the blank forms furnished him by law; certify that such statement is true and correct, according to his best knowledge and belief; and transmit it to the office of the State superintendent on or before the first day of each May. He shall also furnish such other information relating to the public schools as the said superintendent shall at any time require of him. (As amended by P. L., 1897, Chapter 289.)

SECTIONS 89 and 90. Repealed by Public Laws of 1893, Chapter 216.

SECTION 91. Repealed by Public Laws of 1889, Chapter 268.

**School Committees to Serve without Pay, unless Otherwise Voted by the Town — Pay of Superintendent.**

SECTION 92. Superintending school committees shall serve without pay, unless otherwise voted by the town, but the superintendent shall

receive for his services such sum as the town shall annually vote therefor, which sum shall in no case be less than two dollars per day for every day of actual service. (As amended by P. L., 1893, Chapter 216, and further amended by P. L., 1897, Chapter 327.)

SECTIONS 93, 94 and 95. Repealed by Public Laws of 1893, Chapter 216.

#### DUTIES AND QUALIFICATIONS OF INSTRUCTORS.

##### **Teachers to Keep School Register — Not to Be Paid till Register Is Completed.**

SECTION 96. Every teacher of a public school shall keep a register thereof, containing the names of all the scholars who enter the school, their ages, the date of each scholar's entering and leaving, the number of days during which each attended, the length of the school, the teacher's wages, a list of text-books used, and all other facts required by the blank form furnished him; such register shall at all times be open to the inspection of the school committee, and be returned to them at the close of the school. No teacher shall be paid for his services, until such register, properly filled, completed and signed, is deposited with the school committee, or with a person designated by them to receive it.

##### **Instructors of Colleges, Etc., to Inculcate Morality, Justice and Patriotism — Kindness to Birds and Animals Shall Be Taught in Public Schools.**

SECTION 97. The presidents, professors and tutors of colleges, the preceptors and teachers of academies, and all other instructors of youth, in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard for truth; love of country, humanity, and a universal benevolence, sobriety, industry and frugality; chastity, moderation and temperance; and all other virtues which ornament human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, secure the blessings of liberty, and promote their future happiness; and the tendency of the opposite vices, to slavery, degredation and ruin. And it also shall be the duty of all teachers in the public schools of this State to devote not less than ten

minutes of each week of the school term, to teaching to the children under their charge, the principles of kindness to birds and animals. (As amended by P. L., 1891, Chapter 29.)

### **Forfeiture for Teaching without Certificate.**

SECTION 98. Whoever teaches a public school without first obtaining a certificate from the school committee of the town, forfeits not exceeding the sum contracted for his daily wages, for each day he so teaches, and is barred from receiving pay therefor; and no certificate shall be valid for more than one year without the approval of the superintending school committee annually endorsed thereon. (As amended by P. L., 1889, Chapter 225.)

## **SCHOOLS IN PLANTATIONS.**

### **Powers of Plantations.**

SECTION 99. Plantations have the same powers and liabilities as towns for electing committees, treasurers, collectors, and for raising, assessing and collecting school money, to be apportioned and expended as in towns. The assessors of plantations may take a census of the inhabitants thereof, at the expense of the plantation, and when so taken the money raised therein for schools shall be upon the basis of such census and not upon the census of the State. (As amended by P. L., 1893, Chapter 116.)

## **SCHOOLING OF CHILDREN IN UNORGANIZED TOWNSHIPS.**

### **Schooling of Children in Unorganized Townships—Enumeration of Children in—State Superintendent May Establish Schools in Townships or Send Children to Schools in Adjoining Towns—Expense of Schools, How Paid.**

SECTION 100. Whenever in any unorganized township in this State there shall be two or more children between the ages of four and twenty-one years, the State superintendent of schools shall cause an enumeration of said children to be made, and returned to him, and shall provide for the schooling of said children, either by establishing a school in the township, or by sending the children to schools in adjoining towns or plantations, or both, as shall by him be deemed expedient.

In case any of said children are, by the State superintendent, sent to schools in adjoining towns or plantations, said children so sent shall have the same rights in such school as children resident in said town or plantation. Provided, however, that in case the interest on the reserve fund in any unorganized township, together with the amount arising from the per capita tax called for in this Act, is not sufficient to provide schooling for the children of said township for at least twenty weeks in a year, the remainder of the expense shall be paid from the fund appropriated by Section 4 of this Act, provided further that no money shall be expended under this section for the benefit of any township until the inhabitants of said township shall pay to the State treasurer a sum equal to twenty-five cents for each inhabitant thereof. (As amended by P. L., 1899, Chapter 89, and P. L., 1901, Chapter 206.)

**State Superintendent to Certify Facts to Governor and Council — Expense of School, How Paid — State Superintendent of Schools Shall Have Power to Appoint Agents — Compensation of Agents — State Superintendent to Supply Schoolbooks — Appropriation.**

SECTION 101. The State superintendent shall certify to the governor and council the number and residence of the children enumerated and schooled, as provided in Section 1 of this Chapter, together with the cost of schooling said children, and the governor and council shall direct the treasurer of State to pay to the State superintendent of schools so much of the interest on the reserve land fund of the township in which said children reside as, added to the amount received from the inhabitants of the township from the per capita tax, shall pay the expense of said school. The State superintendent of schools shall pay to the treasurer of any town or plantation in which he may school any of said children, such amount per scholar as shall be his proportional part of the cost of the school to which he is sent.

The State superintendent of schools shall have power to appoint agents for the several townships in which schools shall be established under this Act, whose duty it shall be under the direction of the State superintendent to enumerate the pupils, assess and collect the per capita tax, employ the teacher and attend to all necessary details in connection with said schools; for which work he shall be paid a sum not exceeding two dollars per day, when actually employed in this duty, and actual necessary traveling expenses. The State superintendent shall

have power to supply schoolbooks for the schools established under this Act, under such conditions and regulations as to the purchase and care thereof as he may deem proper.

For the purpose of carrying out the provisions of this Act, there is hereby appropriated the sum of twenty-five hundred dollars annually. (Ib.)

#### STATE SUPERINTENDENT OF PUBLIC SCHOOLS.

### **Appointment and Term of Office.**

SECTION 102. The governor, with the advice and consent of the council, shall appoint a State superintendent of public schools, who shall be sworn and continue in office three years, or during the pleasure of the executive; vacancies shall be filled by a new appointment for a like term. (As amended by P. L., 1897, Chapter 237.)

### **To Have an Office at the Capital.**

SECTION 103. An office shall be provided for him at the seat of government, where he shall preserve all school reports of this State and of other states which he may receive, the returns of the school committees of the various towns, and such books, apparatus, maps, charts, works on education, plans for school buildings, models, and other articles of interest to school officers and teachers as may be procured without expense to the State.

### **Duties.**

SECTION 104. His duties are as follows:

### **To Exercise General Supervision of Schools.**

I. To exercise a general supervision of all the public schools, and to advise and direct the town committees in the discharge of their duties, by circular letters and personal conference, devoting all his time to the duties of his office.

### **Obtain and Disseminate Information Relating to School Systems, Etc.**

II. To obtain information as to the school systems of other states and countries, and the condition and progress of common school education throughout the world; to disseminate this information, with such practical hints upon the conduct of schools and the true theory of education, as observation and investigation convince him to be important, by



public addresses, circulars, and articles prepared for the press; and to do all in his power to awaken and sustain an interest in education among the people, and to stimulate teachers to well directed efforts in their work.

**Take Necessary Measures for Holding State Educational Conventions.**

III. To take such measures as he deems necessary to secure the holding of a State educational convention once each year, with a view of bringing together the teachers, school committees and friends of education, for consultation with reference to the interest of common schools and the most approved methods of instruction.

**May Hold County Institutes.**

IV. If sufficient encouragement is afforded by the citizens, to hold in each county once during each year a public meeting or institute for teachers and educators.

**To Publish Abstracts of Proceedings of Such Conventions.**

V. To prepare and cause to be printed and distributed such portions of the proceedings of State institutes or teachers' conventions as he deems important in the furtherance of education.

**Prescribe Studies to Be Taught.**

VI. To prescribe the studies to be taught in the common schools, reserving to town committees the right to prescribe additional studies.

**State Examination of Teachers — Certificates Issued to Successful Candidates — List of Candidates at State Superintendent's Office — Certificate Accepted in Lieu of Examination by Superintending School Committee.**

VII. To cause to be held, at such convenient times and places as he may from time to time designate, public examinations of candidates for the position of teacher in the public schools of the State. Such examinations shall test the professional as well as the scholastic abilities of the candidates, and shall be conducted by such persons and in such manner as he may from time to time designate. Due notice of the time, place and other conditions of the examinations shall be given in such public manner as he may determine.

To give a certificate of qualifications to all candidates who pass satisfactory examinations in such branches as are required by law to be

taught, and who in other respects fulfil the proper requirements. Such certificate shall be either probationary or permanent, and shall indicate the grade of schools which the person named is qualified to teach.

To keep a list of approved candidates in the office of the State superintendent, and copies of the same with such information as may be desired shall be sent to school committees, and superintendents upon their request.

The certificates issued under the provisions of this Act shall be accepted by school committees, and superintendents in lieu of the personal examination required by Section 87, Chapter 11 of the Revised Statutes and all amendments thereto. (P. L., 1895, Chapter 152.)

### **State Superintendent to Have Control of Schools Maintained by Gifts or Bequests — Conditions.**

VIII. To assume the control and management of all free public schools established and maintained by gifts or bequests, when said gifts or bequests are conditioned upon said State superintendent assuming such control and management; and it shall be his duty to carry out the provisions upon which such gifts or bequests are conditioned, when said conditions are approved by the governor and council. (P. L., 1901, Chapter 135.)

### **Make Report to Governor and Council Annually.**

IX. Annually, to report to the governor and council the result of his inquiries and investigations, and the facts obtained from the school returns, with such suggestions and recommendations as in his judgment would best promote the improvement of common schools. (As amended by P. L., 1895, Chapter 173.)

### **To Compile, Publish and Distribute Amended School Laws.**

X. Biennially, as soon as practicable after the adjournment of the legislature, to compile and have printed in pamphlet form, three thousand copies of the amended school laws of the State and distribute the same to the municipal and school officers of the several towns. (As amended by P. L., 1889, Chapter 307.)

### **Issue Circulars of Information and Advice in Relation to New Laws.**

XI. To prepare and issue annually such circulars of information and advice to school officers, relating to new school enactments, as he deems necessary for the intelligent and effectual enforcement of such enactments. (Ib.)

**Duties Under Charters.**

XII. The State superintendent shall perform all duties imposed upon him by any charter or charters granted by the legislature to educational institutions in the State. (P. L., 1901, Chapter 272.)

**Furnish Blank Record Books to School Officers.**

XIII. The State superintendent shall furnish to the school officers of each town, proper blank books in which shall be kept complete and itemized records of all matters relating to moneys appropriated, received and expended for schools, which said books shall remain the property of the State. (P. L., 1897, Chapter 273.)

**Superintendent to Prepare and Forward to Town Clerk Blanks for School Returns.**

SECTION 105. Such superintendent shall prepare and print blank forms for all returns required by law, or deemed by him necessary, and shall, on the first day of each March, forward to town clerks, blanks for the annual school return, and registers for the school year commencing on the first day of April following; and said clerks shall forthwith deliver the same to the school committees of their towns.

**To Notify Delinquent Superintendents; Also, to Return to State Treasurer Number of Children between Four and Twenty-One.**

SECTION 106. He shall, on the first day of each June, notify the school superintendent of any town whose returns were not received at his office in May, and shall, annually, ascertain on the first day of July, the number of children between four and twenty-one years of age, in the towns from which returns are received, and furnish a list thereof to the treasurer of State. (As amended by P. L., 1893, Chapter 216.)

**UNION OF TOWNS FOR EMPLOYMENT OF SUPERINTENDENT OF SCHOOLS.****Towns May Unite and Employ Superintendent.**

I. On and after July 1, 1897, the school committees of two or more towns, having under their care and custody an aggregate of not less than twenty-five or more than fifty schools, may unite in the employment of a superintendent of schools, provided they have been so authorized by a vote of their towns at the regular town meetings, or special town meetings called for that purpose. (P. L., 1897, Chapter 296.)

**Committee of Towns Uniting Form a Joint Committee—  
Shall Meet Annually—Fix Superintendent's Salary  
and Apportion Amounts to Be Paid by Each Town—  
Choose by Ballot a Superintendent of Schools.**

II. The school committee of the towns comprising a union shall form a joint committee, and for the purposes of this Act said joint committee shall be held to be the agents of each town comprising the union. Said joint committee shall meet annually at a day and place agreed upon by the chairman of the committees of the several towns comprising the union, and shall organize by the choice of a chairman and a secretary. They shall determine the relative amount of service to be performed by the superintendent in each town, fix his salary, apportion the amounts thereof to be paid by the several towns, which amounts shall be certified to the treasurers of said towns respectively; provided that the amounts so certified shall be in proportion to the amount of service performed in the several towns. They shall choose by ballot a superintendent of schools, in which choice the committee of each town shall have a vote proportional to the town's share of the expenditure for the superintendent's salary.

**Amount to Be Raised by Towns—Amount of State Aid.**

III. Whenever the chairman and secretary of said joint committee shall certify under oath to the State superintendent of public schools, (the form of certificate to be determined by said State superintendent,) in accordance with the provisions of this Act, that a union has been effected as herein provided, that the towns unitedly have raised by taxation a sum not less than five hundred dollars for the support of a superintendent of schools, and that under the provision of this Act a superintendent of schools has been employed for one year, then, upon the approval of said certificate by the State superintendent of public schools, and the presentation thereof to the governor and council, a warrant shall be drawn upon the treasurer of the State for the payment to the treasurers of the several towns of a sum equal to one-half the amount expended for superintendence by each of the several towns comprising the union, provided that not more than two hundred and fifty dollars shall be paid to any one town or more than seven hundred and fifty dollars to all the towns comprising any union.

**Salary, How Determined.**

IV. The towns uniting for the purpose of employing a superintendent of schools shall appropriate for his salary their proportion of the

sum paid said superintendent; and the amount to be paid by each town shall be determined by dividing the entire sum expended for superintendence among the towns comprising the union in the proportion of the service performed in each town.

### **Superintendents Shall Hold State Certificates.**

V. Persons employed to serve as superintendents of schools under this Act shall hold State certificates, under the Act of 1895, providing for the State examination of teachers, and shall devote their entire time to superintendence.

### **Powers and Duties of Superintendents.**

VI. The powers and duties of superintendents elected under this Act shall be the same as those prescribed for town superintendents in Chapter 11, Section 87, of the Public Laws of the State of Maine.

### **Amount Raised Must Be Exclusive of Common School Fund — Penalty for Misappropriation.**

VII. No town shall receive State aid under this Act unless its appropriation and expenditure for superintendence have been exclusive of the amount required by law for common school purposes. If any part of the money raised by the towns or union of towns, or paid to them by the State for superintendence, is expended for any other purposes than those provided for in this Act, then each person so misappropriating said money shall forfeit double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant thereof; and no town or union of towns shall receive further aid under this Act until the amount so misapplied has been raised and expended for superintendence by such town or union of towns.

### **TEACHERS' CONVENTIONS.**

### **Teachers May Organize to Hold Conventions — State to Defray Expenses — Proviso.**

I. Whenever not less than thirty of the teachers and school officers of any county shall have formed an association under rules of government approved by the State superintendent of public schools, for the purpose of mutual improvement in the science and art of teaching, and of creating popular interest in, and diffusing a knowledge of the best

methods of improving our public school system, by the holding of conventions at least once every year under the supervision of the State superintendent, the State shall defray the necessary expenses attending the holding of such conventions, for which purpose the sum of one thousand dollars is hereby annually appropriated, to be deducted and set aside therefor by the treasurer of State from the annual school fund of the State; provided, however, that no more than two such associations shall be formed in any county, and that the expenses as aforesaid of no more than two conventions of any such association in any year shall be defrayed by the State. (P. L., 1885, Chapter 273, as amended by P. L., 1893, Chapter 283.)

**Teachers Authorized to Suspend Schools and Attend — Proviso.**

II. Teachers of public schools are hereby authorized to suspend their schools for not more than two days in any year during the sessions of such conventions within their counties, unless otherwise directed in writing by the school officers, and attend said conventions without forfeiture of pay for the time of such attendance, provided they shall present to the officers employing them certificates signed by the secretaries of such conventions and countersigned by the State superintendent of public schools, showing such attendance.

**Governor and Council to Draw Warrants — Proviso.**

III. The governor and council are hereby authorized to draw warrants on the treasurer of State for the payment of bills for the expenses herein provided for, when such bills shall have been approved by the State superintendent of public schools; provided, however, that no bills shall be so paid except those for advertising such conventions, and for actual traveling expenses of speakers and lecturers not residing in the counties in which such conventions are held.

**NORMAL SCHOOLS.**

**Three Normal Schools, Where Located.**

SECTION 107. The northern normal school at Farmington, the eastern normal school at Castine, and the western normal school at Gorham, shall be conducted for the purposes and upon the principles herein set forth:

**Training of Teachers.**

I. They shall be thoroughly devoted to the training of teachers for their professional labors.

**Course of Study.**

II. The course of study shall include the common English branches in thorough reviews, and such of the higher branches as are especially adapted to prepare teachers to conduct the mental, moral and physical education of their pupils.

**School Management.**

III. The art of school management, including the best methods of government and instruction, shall have a prominent place in the daily exercise of said schools.

**Christianity and Morality to Be Taught.**

IV. Said schools, while teaching the fundamental truths of Christianity, and the great principles of morality, recognized by law, shall be free from all denominational teachings, and open to persons of different religious connections on terms of equality.

**Principals of Normal Schools or Normal Departments in Other Schools Required to Forward to Superintendent Statistics of Students Therein ; and the Information to Be Laid before the Legislature.**

V. The principles of the normal schools and of all other schools in which normal departments are supported, wholly or in part, by the State, shall keep a register containing the names of all students entering such schools or departments, the date of entering and leaving, their ages, number of days' attendance, the length of the term, a list of textbooks used, and all other information required in the blanks furnished by the State superintendent. Such register and blanks shall be returned to said superintendent by the first day of each December, and the information so furnished shall appear in his annual report, for the use of the legislature.

**Course of Study Arranged by Superintendent—Trustees May Extend It.**

SECTION 108. The course of study shall occupy two years with suitable vacations ; and with the terms of admission shall be arranged by said superintendent, subject to the approval of the governor and

council. The trustees may arrange for a course of study occupying three or four years, for such students as may elect to pursue the same.

### **Diplomas Provided for.**

SECTION 109. Any student who completes the course of study prescribed, and otherwise complies with the regulations of the school, shall receive a diploma certifying the same.

### **Applicants for Admission, Qualifications of— Tuition.**

SECTION 110. Applicants for admission shall be sixteen years of age if females, and seventeen if males, and shall signify their intention to become teachers and come under obligation to teach in this State for at least one year, and if they receive a diploma, two years after they have graduated; on these conditions shall be received without charge for tuition; but each pupil shall pay one dollar and fifty cents for incidental expenses of the school.

### **Trustees of Normal Schools, Appointment of, Etc.— Term— Compensation— Powers and Duties of— Report of.**

SECTION 111. Said schools are under the direction of a board of seven trustees, five of whom shall be appointed by the governor with the advice and consent of the council, for not more than three years under one appointment; and the governor and superintendent of public schools are, by virtue of their office, members of the board. Each of the trustees appointed by the governor shall receive ten cents a mile for actual travel each way, and two dollars a day for his services when employed. Said board has charge of the general interests of said schools; shall see that the affairs thereof are conducted as required by law and by such By-laws as the board adopts; employ teachers and lecturers for the same; and annually on the first day of December lay before the governor and council for the information of the legislature, a financial statement, furnishing an accurate detailed account of the receipts and expenditures for the school year preceding.

### **Annual Appropriation of Thirty-One Thousand Dollars— Treasurer to Deduct Same from School Moneys— Governor, Etc., May Draw Warrants in Favor of Trustees.**

SECTION 112. For the support of the three normal schools, and the Madawaska Training School, thirty-one thousand dollars is annually appropriated, to be expended under the direction of said trustees, which sum the treasurer of State shall deduct for said purpose from any school



money raised for the support of common schools. The governor and council may, from time to time, as they think proper, draw warrants therefor on said treasurer in favor of said trustees. (As amended by P. L., 1891, Chapter 37.)

PENAL PROVISIONS AFFECTING SCHOOLS.

**Forfeitures, How Recovered and Appropriated — Penalty of Town for Neglect to Expend Money.**

SECTION 113. Forfeitures under this chapter, not otherwise provided for, may be recovered by indictment, and shall be paid into the treasury of the town where they occurred, for the support of schools therein, in addition to the amount required by law to be raised; but the costs of prosecution shall be paid into the county treasury; any town neglecting for one year, so to expend such money, forfeits an equal sum to any person suing therefor in an action of debt.

**Penalty for Disturbing Schools.**

SECTION 114. Whoever, whether a scholar or not, enters any school-house or other place of instruction, during or out of school hours, while the teacher or any pupil is present, and wilfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs or gestures; or wilfully interrupts a school by prowling about the building, making noises, throwing missiles at the schoolhouse, or in any way disturbing the school, forfeits not less than two nor more than twenty dollars, to be recovered as aforesaid, or on complaint.

**Parents or Guardians Liable.**

SECTION 115. If a minor injures or aids in injuring any school-house, outbuildings, utensils or appurtenances belonging thereto; defaces the walls, benches, seats, or other parts of said buildings by marks, cuts or otherwise; or injures and destroys any school property belonging to a town, such town by the truant officer thereof, or any one of them, may recover of his parent or guardian, in an action of debt, double the damage occasioned thereby. (Amended by P. L., 1893, Chapter 206.)

**Penalty for Defacing Schoolhouses, Outbuildings, Etc.**

SECTION 116. Whoever defaces the walls, benches, seats, blackboards or other parts of any schoolhouse or outbuildings belonging thereto by obscene pictures, language, marks or descriptions, shall be fined not exceeding ten dollars, on complaint made within one year.

## STATE SCHOOL FUNDS.

**Permanent School Fund.**

SECTION 117. The treasurer of State shall keep a separate account of all moneys received from sales of lands appropriated for the support of schools or from notes taken therefor, and of any other moneys appropriated for the same purpose and such sum shall constitute a permanent school fund, which may be put at interest as the legislature directs. A sum equal to six per cent. of the amount of such fund, and all money received by the State from the tax on banks, together with one-half the amount of the annual tax paid by savings banks shall be annually appropriated to the support of common schools, and distributed among the several towns according to the number of children therein between four and twenty-one years of age.

**Treasurer to Apportion School Funds — Basis, When Returns Are Not Received — Not to Be Paid until Return Is Made.**

SECTION 118. The treasurer shall, immediately after the first day of July, apportion to the towns all State school funds for the year, according to the list of children furnished by the superintendent of public schools, as provided in Section 106. The number of such children belonging to a town from which either the school committee or the municipal authorities have failed to make the returns required by law, shall be reckoned by taking the number used as a basis of the last apportionment, and deducting all such children set off to other towns, or incorporated into a new town within a year, and one-tenth of the remainder, and the residue shall be the basis of the new apportionment. Immediately after making the apportionments, the treasurer shall notify each town of its proportion; which shall not be paid to any town until its return is made to the superintendent of public schools nor so long as any State tax assessed upon such town remains unpaid.

**Mill Tax for Support of Schools.**

SECTION 119. A tax of one mill on a dollar shall annually be assessed upon all the property in the State according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

**How Assessed and Collected.**

SECTION 120. This tax shall be assessed and collected in the same manner as other State taxes, and be paid into the State treasury and designated as the school mill fund.

**To Be Distributed in January Annually.**

SECTION 121. This fund shall be distributed by the treasurer of State on the first day of January, annually, to the several cities, towns and plantations according to number of children therein, as the same shall appear from the official return made to the State superintendent for the preceding year.

**Any Portion Unexpended to Be Added to Permanent School Fund.**

SECTION 122. All of the school mill fund not distributed or expended during the financial year shall at its close be added to the permanent school fund.

**PROVISIONS RESPECTING LITERARY INSTITUTIONS.****Presidents of Colleges, Tenure of Office.**

SECTION 123. Presidents of colleges are removable at the pleasure of the trustees and overseers, whose concurrence is necessary for their election.

**Fees for Degrees Conferred.**

SECTION 124. No officer of a college shall receive as perquisites any fees for a diploma or medical degree conferred by such college, but such fees shall be paid into the college treasury.

**Innholders, Stable Keepers and Certain Others Not to Give Credit to Students.**

SECTION 125. If an innholder, confectioner, or keeper of a shop, boarding house, or livery stable, gives credit for food, drink, or horse or carriage hire to any pupil of a college or literary institution in violation of its rules, or without the consent of its president or other officer authorized thereto by its government, he forfeits a sum equal to the amount so credited, whether it has been paid or not, to be recovered in an action of debt by the treasurer of such institution; half to its use,

and half to the town where it is located ; and no person shall be licensed by the municipal officers for any of said employments, if it appears that within the preceding year he had given credit contrary to the provisions hereof.

#### SCHOOL FOR THE BLIND.

#### **Governor and Council May Send to Perkins Institute, South Boston, Mass.**

SECTION 126. Upon the request of the parents or guardians, the governor may, with the approval of the council, send such blind children as he may deem fit subjects for education, for a term not exceeding ten years, and thereafter in the discretion of the governor and council, in the case of any pupil, to the Perkins Institute for the blind at South Boston, Massachusetts. In the exercise of the discretionary power conferred by this Act, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the governor; and the sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution shall be paid by the State; provided, however, that nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils. (As amended by P. L., 1899, Chapter 2.)

SECTIONS 127 and 128. Repealed by Public Laws of 1893, Chapter 203.

#### **Superintendent Shall Not Be a Member of Committee — Towns May Elect Superintendent.**

SECTION 129. The management of the schools and the custody and care, including repairs and insurance on school buildings, and of all school property in every town, shall devolve upon a superintending school committee, which shall annually elect a superintendent of schools who shall not be a member of the committee, who shall be *ex officio* secretary of the committee; but any town may elect a superintendent of schools by ballot at the regular town meeting. (P. L., 1897, Chapter 246.)

ALL EDUCATIONAL INSTITUTIONS RECEIVING STATE AID SHALL  
REPORT TO STATE SUPERINTENDENT.

**Every Educational Institution Receiving State Aid Shall  
Report to State Superintendent.**

SECTION 130. Every educational institution receiving State aid shall report to the State superintendent of public schools the total and average attendance, receipts and expenditures, number of instructors, number and length of terms, with attendance for each, and answer such other questions as he shall determine, and the same shall be published in his annual report.

**Forfeiture.**

SECTION 131. Every such educational institution failing to comply with the above requirements shall forfeit whatever aid or assistance it would otherwise receive from the State. (Ib.)

MANUAL TRAINING SCHOOLS.

**City May Raise Money for Training Schools.**

SECTION 132. Cities and towns may raise and appropriate money for the support of manual training schools, in addition to the sum they raise for the support of public schools.

**School Age — Course of Instruction.**

SECTION 133. Said manual training schools shall admit such persons between the age of six and twenty-one years, and shall give such courses of instruction as the local school board may determine.

**How Controlled.**

SECTION 134. Said manual training schools shall be under the control, direction and supervision of local school boards.

**Pupils, How Governed.**

SECTION 135. Pupils in said schools shall be subject to the same conditions, rules and regulations as are provided for public schools.

**City May Accept Trust Funds.**

SECTION 136. Cities and towns may receive gifts and bequests for the use, maintenance and support of manual training schools. (P. L., 1901, Chapter 234.)

## SCHOOL COMMITTEE OF PORTLAND.

**School Committee of Portland, How Constituted.**

SECTION 137. The school committee of the City of Portland shall consist of the mayor of said city, who shall be, *ex officio*, chairman of the committee, and of seven other persons, one of whom shall be elected in each of the wards of said city at the annual election for municipal officers, in the same manner as aldermen are now elected, and such person shall be a resident of the ward in which he is elected. (Special Laws of 1881, Chapter 155, as amended by Special Laws of 1885, Chapter 392.)

**Election and Terms of Office.**

SECTION 138. At the annual election in the year 1885, a member of said committee shall be elected in Ward 2, Ward 4, Ward 6 and Ward 7, and in the year 1886 in Ward 1, Ward 3 and Ward 5, and shall hold their office for the term of two years; and thereafter, at each annual election, such a number of said committee shall be elected as shall be necessary to fill the places of those whose term of office shall expire in that year. (Special Laws of 1885, Chapter 392, Section 2.)

**Vacancy, How Filled.**

SECTION 139. In case of a vacancy in said committee the city council shall, in joint convention, elect by ballot, some person resident in the ward in which the vacancy occurred, to hold office until the next annual election, when the unexpired term, if any, shall be filled as provided in Section 1 of this Act. (Ib., Section 3.)

**Powers and Duties of School Committee—Election of a Superintendent—Salary—Estimates to Be Furnished City Council—No Compensation.**

SECTION 140. The said committee shall have all the power, and perform all the duties in regard to the care and management of the public schools of said city, which are now conferred and imposed upon superintending school committees by the laws of this State, except as otherwise provided in this Act. They shall annually, and whenever there is a vacancy, elect a superintendent of schools for the current municipal year, who shall have the care and supervision of said public schools under their direction, and act as secretary of their board; they

shall fix his salary at the time of his election, which shall not be increased during the year for which he is elected, except by consent of said city council, and may at any time dismiss him if they deem it proper and expedient. They shall annually, as soon after the organization of their board as practicable, furnish to said city council an estimate in detail of the several sums required during the ensuing municipal year for the support of said public schools, and shall not increase the salaries of the superintendent and teachers, or any other expenditures, beyond the amounts specified therefor in such estimate, except by consent of said city council. No member of the committee shall receive any compensation for his services. (Private Laws, 1875, Chapter 84.)

### **Powers Not Specially Conferred Vested in City Council.**

SECTION 141. All powers, obligations and duties in regard to said public schools, not conferred and imposed upon said committee by the provisions of this Act, shall be and are hereby vested in the city council of said city. (Ib.)

### **Certain Acts Repealed.**

SECTION 142. All Acts and parts of Acts inconsistent with the provisions herein contained, as far as the City of Portland is concerned, are hereby repealed. (Ib. and Special Laws, 1881, Chapter 155.)

### **Female Members of School Committee to Be Elected— Powers and Duties.**

SECTION 143. In addition to the members of the school committee of the City of Portland, as now provided by law, there shall be elected by a general vote of the city at the municipal election to be held on the first Monday in March, in the year 1900, three female members of said committee, two of whom shall hold office for the term of two years and one for the term of one year; and thereafter at each annual election such a number of female members of said committee shall be elected each to hold office for the term of two years, as shall be necessary to fill the places of those female members whose term of office shall expire in that year. Said female members shall have the same powers and duties as the other members of the committee and shall be nominated at the same time and in the same manner as the mayor is now nominated. (Special Laws, 1899, Chapter 17, Section 1.)

**Vacancies, How Filled.**

SECTION 144. In case of a vacancy among the female members of the school committee after the election thereof as provided for in Section 1 of this Act, the city council shall, in joint convention, elect by ballot, some female resident of the city to fill the vacancy, and hold office until the next annual election. (Ib., Section 2.)

**Amendments to City Charter Not to Affect This Act.**

SECTION 145. No amendment to the city charter, or substitute therefor, shall affect this Act, unless so specifically provided in said amendment or substitute. (Ib., Section 3.)

**Act to Take Effect When Adopted by Vote of the People.**

SECTION 146. This Act, except this section, shall not take effect until accepted by the voters of said city at the regular municipal election to be held in March, 1899, when those favoring the adoption thereof, shall vote "Yes," and those opposed shall vote "No," and if it appear that a majority of all the votes given on the question of its acceptance are in favor thereof, the mayor shall forthwith make proclamation of the fact, and thereupon this Act shall take effect. This section shall take effect when approved. (Ib., Section 4.) (Accepted March 6, 1899.)

**Annual Election of School Committee in Wards Eight and Nine.**

SECTION 147. On the first Monday in March, in the year 1899, and thereafter annually, the qualified electors of each of said nine wards shall ballot for mayor, one alderman, three common councilmen, a warden and a clerk, and two constables, on one ballot in the manner provided by law. At said election for 1899, the electors of ward 8 shall likewise ballot for a member of the school committee to serve for one year; and the electors of ward 9 shall likewise ballot for a member of the school committee to serve for two years, and thereafter the electors in each of said wards shall elect a member of the school committee for two years. (Special Laws, 1899, Chapter 11, Section 3.)

**School Money in Portland, How Paid.**

SECTION 148. All moneys appropriated for the use and support of public schools in the City of Portland, shall be paid by the treasurer of the city, upon the account being approved by the mayor and com-



mittee of accounts for the City of Portland. The provisions of the Public Laws of 1877, Chapter 196, shall not apply to the City of Portland. (Act 1879, Chapter 131.)

#### LEGAL SCHOOL HOLIDAYS IN MAINE.

##### **Legal School Holidays.**

SECTION 149. The following days, recognized as legal holidays by the laws of the State of Maine, shall be observed as school holidays, namely: New Year's day, January 1; Washington's birthday, February 22; Memorial day, May 30; Independence day, July 4; Labor day, first Monday in September; Christmas day, December 25; Thanksgiving, Fast and Arbor days, as appointed by the governor and council. Provided, however, that Arbor day shall not be recognized as a school holiday unless observed by teacher and pupils for the purpose for which it is designated by the governor and council. All teachers of public schools in this State may close their schools on the days mentioned in this Act, and draw pay the same as if their schools had been in session upon those days. (P. L., 1901, Chapter 202.)

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#### ORDINANCES.

##### **School Committee to Elect and Remove Instructors, and Determine Their Salaries, Etc.**

SECTION 1. The school committee are authorized to elect all such instructors as they may think necessary for the public schools, and to determine the amount of their respective salaries; also to remove any instructor from said schools when in their discretion it may be proper; and generally to execute all the powers which the selectmen of towns or school committees are authorized by the laws of this State to exercise.

##### **To Apportion Salaries of Instructors so As Not to Exceed the Appropriations Made by City Council.**

SECTION 2. The school committee are authorized to distribute the annual sum which shall be appropriated by the city council for salaries of instructors in the public schools, fixing the salary of each instructor in accordance with the specifications of said committee on which the aggregate amount of salaries may have been predicated, and on which the appropriations shall have been made by said city council.

**Persons Not Vaccinated Not Permitted to Attend Public Schools.**

SECTION 3. No person who has not been vaccinated, or otherwise secured against any contagion of small pox, shall be permitted to attend any of the city schools. (Ib.,)

**School Committee May Cause Scholars to Be Vaccinated at Expense of City.**

SECTION 4. The school committee may cause any scholar of any of the city schools to be vaccinated by the city physician, at the expense of the city; and it shall be their duty to carry into effect the provisions of this and the preceding section, and for that purpose to make such rules and regulations as they may deem proper.

## TRUANTS.

**Children between the Ages of Eight and Sixteen Required to Attend School unless, Etc.**

SECTION 5. All children between the ages of eight and sixteen years, residing in the City of Portland, without any regular and lawful occupation, growing up in ignorance, shall be required, unless there be some sufficient reason to the contrary, to attend some public or private school, or suitable place of instruction.

**Truant Officers — Duties.**

SECTION 6. The city council of the City of Portland shall annually appoint one or more persons, who alone are authorized to make the complaints as specified in this ordinance, but during the months of July and August such person or persons may, with the concurrence of the mayor and aldermen, be appointed to such special police duty as may be required, at such compensation as they may fix. It shall be their duty during the session of the schools to report daily at the office of the superintendent of schools between the hours of eight and nine A. M. to receive the names of truants and such other information and instruction as may be necessary, and it shall be their duty to arrest all such children as are described in Sections 5, 7 and 10 of this ordinance, who may be found during school hours in any of the streets, alleys, lanes, squares or public places of resort and amusement and to take them to such schools as they are accustomed or entitled to attend, where they shall be detained during school hours by the teacher thereof,

and written notice of such arrest and detention shall be forthwith sent to the parent or guardian of such child by the officer by whom the arrest is made, and every child, who shall have been three times thus arrested, shall be proceeded against under the statute for truancy. (See Section 25, Page 671.)

### **What Provided as Suitable Places of Punishment.**

SECTION 7. The house of correction connected with the almshouse, in the City or Portland, is hereby assigned and provided as the institution of instruction, house of reformation or other suitable situation, mentioned in Section 23 of Chapter 11 of the Revised Statutes. (Rev. Ord., 1868.)

### **Habitual Truants, How Punished.**

SECTION 8. Every child in the City of Portland, between the ages of eight and sixteen years, who shall not attend school, and not be engaged in any regular or lawful occupation, and growing up in ignorance, or shall become an habitual truant, shall be punished by a fine not exceeding twenty dollars, to be recovered to the use of the city, on complaint before the municipal court, in said city, or being placed for such period of time as the judge of said court may deem expedient, in an institution of instruction, house of reformation, or other suitable situation provided for the purpose, under the authority conferred by Sections 21 and 23 of Chapter 11 of the Revised Statutes.

### **Superintendent of School Buildings — Election of.**

SECTION 9. There shall be annually elected by the city council an officer to be called the superintendent of public school buildings at such salary as may be fixed by the city council. He shall have an office in the city building and shall be in attendance at his office during at least two fixed hours on each secular day.

### **Duties.**

SECTION 10. He shall have the care of the public school buildings, and under the direction of the committee on public buildings, and out of the appropriation made therefor shall make all necessary repairs to said school buildings, making no contract therefor exceeding twenty-five dollars without the order of said committee on public buildings and attend to the heating of the same and see that the janitors employed do their duty in all respects.

**Superintendent to Furnish Certain Supplies — To Report to School Committee and Committee on Public Buildings.**

SECTION 11. Under the direction of the school committee and out of the appropriations made therefor he shall attend to furnishing the schools by contract awarded to the lowest bidder with stationery and school apparatus and ordinary school supplies needed for the use of the schools, and shall report to the school committee and to the committee on public buildings the condition of the school buildings, and also report to the school committee such articles as are needed for the use of the schools. He shall keep separate accounts with each school of all expenditures for repairs, and also for articles furnished, and at the end of each school term he shall make inspection and shall return to the school committee an account of all property belonging to the city in each school room.

**Bills to Be Approved, How.**

SECTION 12. All bills for the care, repairs and heating of the school buildings before payment shall be approved by the committee on public buildings, and all bills for supplies and articles furnished the schools before payment, shall be approved by the school committee, and finally both classes of bills shall be audited and approved according to law by the board of mayor and aldermen.

**Non-Resident Children May Be Admitted into School under Rules of School Committee.**

SECTION 13. Children, non-residents of Portland, may be admitted to the public schools of this city under such rules as the school committee may prescribe, when in the opinion of said committee it may be done without prejudice to the schools to which admission is solicited, on the payment quarterly in advance to the city treasurer of a tuition, to be fixed by school committee, not less than the average cost to the city per scholar for tuition, and incidentals in schools of the same grade. Children, residents of this city, whose parents remove from one school district to another during school time, shall be allowed to elect which school they will attend until the next vacation.

**School Libraries — One-Half of Tuition Fees to Be Used for Purchase of Books for Libraries.**

SECTION 14. One-half part of the tuition fees received by the city from non-resident pupils in any of the schools of the city shall be

placed to the credit of the School Library Fund. By and with the advice and consent of the committee on public instruction said fund shall be expended by the principal of the respective schools for the purchase of books for libraries in said schools, to an amount equal to the half part of said tuition fee received from pupils in each separate school.

## CHAPTER 88.

# SEAL OF THE CITY.

## ORDINANCES.

### Seal of the City.

SECTION 1. The design hereto annexed shall be the device of the city seal; and the motto shall be as follows, to wit: *Resurgam, Sigillum Civitatis Portlandiæ.*



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## SEWERS.

(See Chapter on Drains and Sewers, page 232.)

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## SIDEWALKS.

(See title Streets.)

## **CHAPTER 89.**

# **SNOW.**

### **Statute.**

#### **City May Make Ordinances for Clearing Snow from Sidewalks.**

SECTION 1. Cities may make By-laws or ordinances, not inconsistent with law, and enforce them by suitable penalties for setting off portions of their streets for sidewalks, and keeping them clear of snow and other obstructions. (R. S., Chapter 3, Section 59, Par. VI.) Towns may, by ordinance, set off portions of its ways or streets as sidewalks, and require them to be kept clear of snow and other obstructions. (R. S., Chapter 18, Section 17.) 16 Pick. 504, 88 Ill. 554.

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### **ORDINANCES.**

#### **Snow to Be Removed from Footway or Sidewalk — Penalty.**

SECTION 1. The tenant or occupant, and in case there should be no tenant, the owner, or any person having the care of any building or lot of land bordering not more than one hundred and fifty feet on any street, lane, court, square, or public place within the city, where there is any footway or sidewalk, shall, after the ceasing to fall of any snow, if in the day time within three hours, and if in the night time, before ten o'clock of the forenoon succeeding, cause such snow to be removed from such footway or sidewalk, and, in default thereof, shall forfeit and pay a sum not less than two dollars, nor more than ten dollars; and for each and every hour thereafter that the same shall remain on such footway or sidewalk, such tenant, occupant, owner or other person, shall forfeit and pay a sum not less than one dollar, nor more than ten dollars. And if such building or lot should extend more than one hundred and fifty feet, on any street or land, it shall be the duty of such tenant or occupant, owner or other person, to remove such

snow from the footway or sidewalk for the space of one hundred and fifty feet, according to the provisions and subject to the penalties aforesaid.

(NOTE. The owner of a building is liable for injuries resulting from obstructions caused by himself in the adjoining sidewalk, but not for injuries from defects in the sidewalk. Kirby v. Boylston, Market Asso. 14 Gray, 249. Similar ordinance pronounced constitutional and construed; Goddard, petitioner, 16 Pick. 504.)

### **To Apply to Snow Falling from Buildings.**

SECTION 2. The provisions of the preceding section shall also apply to the falling of snow from any building.

### **Ice to Be Removed from Sidewalks, or to Be Covered with Sand, Etc. — Penalty.**

SECTION 3. Whenever the sidewalk, or any part thereof adjoining any building or lot of land on any street, shall be encumbered with ice, it shall be the duty of the occupant, and in case there is no occupant, the owner, or any person having the care of such building or lot, to cause such sidewalk to be made safe and convenient, by removing the ice therefrom, or by covering the same with sand or some other suitable substance; and in case such owner or occupant, or other person, shall neglect so to do, for the space of six hours during the day time, he shall forfeit and pay not less than two nor more than five dollars, and a like sum for every day that the same shall continue so encumbered.

### **Ice Thrown into Streets to Be Placed Evenly, and to Be Broken into Small Pieces.**

SECTION 4. Every person who shall lay, throw, or place, or cause to be laid, thrown or placed, any ice or snow into any street within the city, shall cause the same to be broken into small pieces, and spread evenly on the surface of such street, and in default thereof shall be liable to a penalty of not less than two nor more than five dollars for every offence.

Snow slides, see page 498.



## **CHAPTER 90.**

# **STREETS.**

### **Statutes.**

#### **Authority of City Council over Streets.**

SECTION 1. The city council shall have exclusive authority to lay out, widen, or otherwise alter, or discontinue any and all streets or public ways in the City of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. (See City Charter, Section 9, Page 47.)

(NOTE. By this section the city council have all the powers to locate and alter streets which by general law is conferred upon the inhabitants and selectmen of towns. The location of a street is not an act of appropriation of money, and it is not necessary to be approved by the mayor. Committee on laying out streets have certain powers of the city council. *Preble vs. Portland*, 45 Me. 241; *Jones vs. Portland*, 57 Me. 42.)

#### **Committee on Laying out New Streets — Duties — Hearings — Report of Committee.**

SECTION 2. A joint standing committee of the two boards shall be appointed, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken,

when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report shall not be altered or amended before its acceptance. (Ib.)

**Streets Not to Be Discontinued Except on Report of Committee — Committee to Estimate Damages — Land Damages.**

SECTION 3. A street or way shall not be discontinued by the city council excepting upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk seven days at least before its acceptance. (Ib.)

**Appeals, How Taken.**

SECTION 4. Any person aggrieved by the decision or judgment of the city council in establishing, altering or discontinuing streets, may, so far as relates to damages, appeal therefrom to the next court having jurisdiction thereof, in the County of Cumberland, which court shall determine the same by a committee or reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the Supreme Judicial Court, which shall first be holden in the County of Cumberland, more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants shall join in their appeal or shall not recover their costs. (Ib.)

**Land Damages, When to Be Made.**

SECTION 5. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same, shall estimate and include all the damages sus-

tained by the land owner, including those caused by the original location of the streets; and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. (Ib.)

### **City Not Compelled to Construct or Open Streets.**

SECTION 6. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials or otherwise, until they decide to open and construct said streets. (Ib.)

### **City Council to Regulate Height and Width of Streets — Posts and Trees May Be Placed on Edge of Sidewalks.**

SECTION 7. The city council may regulate the height and width of sidewalks in any public square, places, streets, lanes or alleys in said city; and may authorize posts and trees to be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by telegraph poles and wires erected in its streets. (Ib.)

### **Original Location of Streets to Be Ascertained by City Engineer, How Often — Persons May Object.**

SECTION 8. The original location of all streets and ways in said city shall, once in ten years, or oftener, be ascertained by the city engineer, under the direction of the city council, as accurately as practicable, the location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall give twenty days' notice, by advertisement in two or more public papers in the city, of the time and place at which it will act upon said report. Any person may appear and object to the report; and after a full hearing of all parties interested, the committee may accept, alter or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines for such streets and ways in said city, according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as, and for, the original boundaries; and a record of the location thereof to be made upon the city records; and a copy of the last record of such proceedings respecting any street, with evidence of the location of the boundaries

therein designated, shall in all judicial proceedings, be *prima facie* evidence of the place of the original location of said street. (City Charter, Section 21.)

### **Obstruction of Streets on Public Occasions.**

SECTION 9. The mayor and aldermen of said city may on public occasions, by their orders, forbid the passing, temporarily, of horses, carriages or other vehicles, over or through such streets or ways in said city, as they may deem expedient. (Ib., Section 22.)

### **In Relation to Laying Sidewalks — One-Half of Expense to Be Assessed on Adjacent Lots — Expense, How Estimated.**

SECTION 10. The City of Portland may at their option without notice, and under such regulations or orders as they may have established or passed, or may hereafter establish or pass, construct sidewalks or footways, laid with brick, flat stones, concrete, or other materials, with suitable curbs, on any street or portion thereof, and direct one-half the cost thereof to be assessed on adjacent lots, and for that purpose may direct the curb to be set at any time previous to the construction of the walk, and cause the cost of the curb and the cost of the paving of the walk to be assessed separately, as each is or may be done; provided that no owner or proprietor shall be assessed for more than two hundred feet in length of sidewalk or footway, on any one street in front of any unimproved lots or parcels of land. The expense of said walks complete, or of said curbs, or of said paving, shall be estimated and assessed within one year, by the mayor and aldermen of said city, on the several lots chargeable therewith, and by them certified to the city treasurer, in the manner and with all rights to the parties interested, as provided in Section 24 of the Act to which this is additional, and be enforced as therein provided, but said assessment shall at any time be corrected on due notice, and certified anew by the mayor and aldermen aforesaid, and no assessment shall be void by reason of error in the name of the owner or occupant of the lot assessed, provided the lot assessed is so described that the same may be distinctly known. (Private Laws of 1871, Chapter 647.)

(NOTE. See also Section 23 of the City Charter, Page 54.)

**Unpaid Sidewalk Assessments for Deering Streets, How Collected.**

SECTION 11. Unpaid sidewalk, drain and sewer assessments legally assessed by the City of Deering shall be collected in the manner provided by the Deering charter and ordinances, and the City of Portland shall have the same rights to enforce payment of said taxes, and sidewalk, sewer and drain assessments as the City of Deering would have had but for the passage of this Act. (Special Laws of 1899, Chapter 190.)

**Portland Gas Company Authorized to Lay Down Pipes, Etc., in Streets.**

SECTION 12. The Portland Gas Company are authorized to lay down, in and through the streets of the city, and to take up, replace and repair all such pipes and fixtures as may be necessary for the objects of their incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe. And any obstruction in any street of the city, or taking up or displacement of any portion of any street, without such consent of the city council or contrary to the restrictions or regulations that may be prescribed as aforesaid, shall be considered a nuisance. And said company shall be liable to indictment therefor, and to all the provisions of law applicable thereto. (Act, 1849, Chapter 288, Section 3.)

**Time Allowed to Remove Buildings and Opening Way.**

SECTION 13. The owners of lands taken shall be allowed one year after the proceedings are finally closed to take off timber, wood, or any erection thereon. A time not exceeding three years shall be allowed for making and opening the way. (R. S., Chapter 18, Section 9.) 5 Me. 254, 8 Me. 137, 12 Me. 300, 39 Me. 116, 64 Me. 409, 84 Me. 99.

**City May Pass By-laws Respecting Streets.**

SECTION 14. Towns, cities and village corporations may make By-laws or ordinances, not inconsistent with law, and enforce them by suitable penalties, for the purposes and with the limitations following:

I. For setting off portions of their streets for sidewalks and keeping them clear of snow and other obstructions, and for planting and preserving trees by the side thereof, and for the proper protection and care

of public parks and squares within the same and all monuments, statues and erections thereon.

II. Respecting the location and protection of monuments, boundary stones, curbstones, stepping-stones or horse-blocks, trees, lamp posts, posts and hydrants, and all other things placed within the limits of their roads, ways and streets, by municipal authority and for legitimate municipal purposes; and no such objects placed as aforesaid, if located in accordance with such By-laws and ordinances, shall be deemed defects in such road, way or street. (R. S., Chapter 3, Section 59.)

**County Commissioners to Preserve Boundaries of Highways by Durable Monuments — Municipal Officers to Preserve and Replace Them — Proceedings When an Appeal Is Taken for Increase of Damages.**

SECTION 15. When the true boundaries of highways duly located are doubtful, uncertain or lost, the county commissioners of the county wherein such highway is located, upon petition of the municipal officers of the town wherein the same lies, shall, after such notice thereon as is required for the location of new ways, proceed to hear the parties, examine said highway, locate and define its limits and boundaries and cause durable monuments to be erected at the angles thereof, and if any real estate is damaged by said action, shall award damages to the owner as in laying out new highways. Said municipal officers shall maintain all highway monuments, and replace them forthwith when destroyed. If any appeal for increase of damages is taken, and the commissioners are of opinion that their proceedings hereunder, or any part thereof, ought not to take effect, they shall enter a judgment that the prayer of the original petitioners or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county; and this shall apply to proceedings in which any such appeal is now pending. (R. S., Chapter 18, Section 11.) 83 Me. 42, 111.

**Way Located by Town Officers, Void, if Land Not Entered on in Two Years.**

SECTION 16. When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings are void. (R. S., Chapter 18, Section 36.) 12 Me. 237, 17 Me. 271, 43 Me. 428, 59 Me. 543, 538, 71 Me. 240, 79 Me. 271.

### **Ways to Be Kept Open and in Repair.**

SECTION 17. Highways, town ways and streets, legally established, shall be opened and kept in repair so as to be safe and convenient for travelers with horses, teams and carriages. In default thereof those liable may be indicted, convicted, and a reasonable fine imposed therefor. (R. S., Chapter 18, Section 52.) 5 Me. 256, 12 Me. 301, 15 Me. 407, 16 Me. 189, 18 Me. 287, 35 Me. 104, 36 Me. 293, 397, 37 Me. 251, 451, 38 Me. 221, 46 Me. 485, 51 Me. 128, 131, 533, 57 Me. 533, 536, 58 Me. 57, 62 Me. 105, 470, 472, 63 Me. 477, 546, 550, 551, 64 Me. 60, 65 Me. 37, 286, 515, 550, 67 Me. 166, 68 Me. 153, 360, 499, 69 Me. 197, 70 Me. 306, 82 Me. 273, 84 Me. 18, 85 Me. 278.

### **Persons Injured by Defects in Highways May Recover Damages — Limitation — When Sufferer Must Give Previous Notice — County Commissioners or Town Officers Must Be Notified within Fourteen Days — Loss of Life — Damages for — How Recovered.**

SECTION 18. Whoever receives any bodily injury or suffers damage in his property, through any defect or want of repair, or sufficient railing, in any highway, town way, causeway or bridge, may recover for the same in a special action on the case, to be commenced within one year from the date of receiving such injury, or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county or the municipal officers, highway surveyors or road commissioners of such town, had twenty-four hours' actual notice of the defect or want of repair, but not exceeding two thousand dollars in case of a town; and if the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town unless he has previously notified one of the municipal officers of the defective condition of such way; and any person who sustains injury or damage, as aforesaid, or some person in his behalf, shall, within fourteen days thereafter, notify one of the county commissioners of such county, or of the municipal officers of such town, by letter or otherwise, in writing, setting forth his claim for damages, and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county or town, liable to keep the same in repair, in an action on the case, brought for the benefit of the estate of the deceased, such sum as the

jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged, when it would materially aid in a clear understanding of the case. (R. S., Chapter 18, Section 80.) 75 Me. 79, 113, 538, 559, 76 Me. 427, 531, 77 Me. 44, 384, 78 Me. 209, 80 Me. 598, 82 Me. 62, 67, 84 Me. 18, 147, 278, 572, 85 Me. 426, 87 Me. 527, 88 Me. 293, 461, 468, 90 Me. 131, 213, 485, 93 Me. 80, 360.

### **Repair within Six Years, Proof of Way.**

SECTION 19. When on trial of any such action or indictment it appears that the defendant has, within six years before the injury, made repairs on the way or bridge, he shall not deny its location. (R. S., Chapter 18, Section 81.) 5 Me. 368, 12 Me. 237, 25 Me. 297, 40 Me. 154, 51 Me. 182, 187, 54 Me. 94, 57 Me. 375, 58 Me. 349, 61 Me. 199, 63 Me. 546, 66 Me. 349.

### **No Liability if Load Exceeds Six Tons.**

SECTION 20. No town is liable for such an injury when the weight of the load, exclusive of the carriage, exceeds six tons. Proof of its weight must be made by the plaintiff. (R. S., Chapter 18, Section 82.)

### **Slippery Sidewalk no Cause of Action for Pedestrian.**

SECTION 21. No town is liable to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or crosswalk, nor on account of the slippery condition of any sidewalk or crosswalk. (R. S., Chapter 18, Section 83.)

### **When Gates, Bars and Fences on Ways May Be Removed.**

SECTION 22. Any person may take down and remove gates, bars or fences, upon or across any highway or town way, unless they are there to prevent the spread of infectious disease, or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license a person aggrieved by such removal may apply, and on proof that such erections were made by their license, they may order them to be replaced by the person who removed them. (R. S., Chapter 18, Section 92.) 12 Me. 32, 38, 59 Me. 144.



**When Buildings or Fences on a Street or Way Become Bounds—Continuance Justified after Forty Years—Persons May Admit Wrongful Occupancy.**

SECTION 23. When buildings or fences have existed more than twenty years fronting upon any way, street, lane, or land appropriated to public use, the bounds of which cannot be made certain, by records or monuments, such buildings or fences shall be deemed the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify their continuance thereon, and on indictment and conviction they may be removed. Persons owning lands beside a highway or town way, on which are buildings or fences that encroach within the limits of said way, may, by a writing under seal, by them signed and acknowledged, and recorded in the registry of deeds for the county in which the land lies, admit to the municipal officers of the town in which said way exists, the true bounds or limits of said way, and the extent of their wrongful occupancy thereof. And thereafter such persons, and all claiming title under or through them, shall be estopped from asserting any right to the continuance of such buildings or fences within said limits, for the full term of forty years from the date of such deed. (R. S., Chapter 18, Section 95.) 79 Me. 271, 82 Me. 391, 83 Me. 508, 85 Me. 419.

**Towns Required to Maintain Guide Posts at Crossings of Ways—Penalty for Neglect.**

SECTION 24. Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, substantial guide posts not less than eight feet high, and fasten to the upper end of each a board, on which shall be plainly printed, in black letters on white ground, the name of the next town on the route, and of such other place as the municipal officers direct, with the number of miles thereto, and a figure of a hand with the forefinger pointing thereto; and for any neglect herein, towns are subject to indictment, and fine not exceeding fifty dollars. (R. S., Chapter 18, Section 96.) 21 Me. 167, 72 Me. 287.

**Town Officers to Erect Guide Posts—Penalty for Neglect—Plantations Obligated as Towns.**

SECTION 25. If the municipal officers of any town unreasonably neglect to cause a guide post to be erected in their town as provided by law, they forfeit five dollars for each month's neglect, to be recovered

in an action on the case by any person suing therefor. Plantations assessed in State or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns. (R. S., Chapter 18, Section 97.) 72 Me. 287.

### **Excavations near Ways, How to Be Made — Responsibilities.**

SECTION 26. Persons desiring to make an excavation near a street or public way, may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; such officers shall in writing direct whether it may or not be made, and if permitted, the manner of making it; and when so made, no liability is incurred thereby. If not so made, the person making it is liable to the town, in an action on the case, for all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation. (R. S., Chapter 18, Section 98.) 54 Me. 47, 57 Me. 377.

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## **ORDINANCES.**

### **Names of Streets to Be Continued.**

SECTION 1. The several streets of the city shall continue to be called and known by the names given to them respectively by the selectmen of the Town of Portland, the mayor and aldermen of the city, or the city council, until the same shall be altered by the city council.

### **Committee on Laying Out New Streets to Be Appointed.**

SECTION 2. There shall be appointed, annually, by the city council, a joint committee to be called the committee on laying out new streets, to consist of three members of the board of mayor and aldermen, and three members of the common council.

### **Streets on Back Cove Flats, under What Conditions to Be Accepted.**

SECTION 3. The city council upon the petition of the proprietors of Back Cove flats, will accept and lay out any necessary and desirable streets of suitable courses and widths in said Back Cove, from Tukey's bridge to Deering's bridge, Forest avenue, and from the shore line to the line of the harbor commissioners, over flats now or hereafter filled

up by said proprietors; provided, that said streets shall be filled to such a grade as may be established from time to time by the city, and are properly protected by solid filling or grebble walls; and provided, that in all such cases the city shall not be called upon to pay a compensation exceeding four cents per superficial foot of the filling of said streets, which is to be accepted by said proprietors for cost of filling and for damages; and also provided, that the committee on laying out and widening streets shall decide that the interests and convenience of the city require such streets to be so accepted and laid out.

### **Numbering Streets.**

SECTION 4. The building and lots on all streets, that may be hereafter laid out, those already laid out but not numbered, and any street already laid out, two-thirds of the legal voters occupants of the same petitioning therefor, shall be numbered in the following manner: On the streets that run lengthwise of the city territory, beginning at the northeasterly termination, with numbers one and two, and progressing southwesterly, with the odd numbers on the northwesterly side of the street, and the even numbers on the opposite side; and on the transverse streets beginning on the southwesterly or harbor side, with numbers one and two, and progressing northwesterly with the odd numbers on the northeasterly side of the street, and the even numbers on the opposite side.

### **Number for Every Lot.**

SECTION 5. There shall be a number for every lot not exceeding twenty-five feet of land fronting on a street, and a number for every additional twenty feet or fraction thereof, excepting that on those streets that are compactly built up, a number shall be assigned for each and every door, and to adjoining vacant lots proportionally; and corner lots shall be numbered on both streets.

### **Plan of Streets.**

SECTION 6. The commissioner of public works shall make a plain skeleton plan of each street, designating the numbers and dimensions of all the lots, with the names of the owners thereon, on a scale of not less than one inch for every fifty feet, which plan shall be kept in the office of said commissioner for reference.

**Mayor and Aldermen to Cause Numbers to Be Affixed to Houses.**

SECTION 7. The mayor and aldermen shall have power to cause numbers of regular series to be affixed to or inscribed on all dwelling houses and other buildings erected or fronting on any street, lane, alley or public court within the City of Portland, as provided in the three preceding sections, and shall also have power to determine the form, size and material of such numbers, and the mode, place, succession and order of inscribing or affixing them on said respective houses or other buildings. Any owner or occupant of any building or part of a building who shall neglect or refuse to affix to the same the number designated by the mayor and aldermen or by some person by them duly authorized, or who shall affix to the same or retain thereon more than one day, any number contrary to the direction of the mayor and aldermen or person so authorized, shall forfeit and pay a sum not less than one, nor more than twenty dollars for every offence, and a like sum for every day such offence shall be continued.

**No New Grades Fixed or Old Ones Changed, except by Vote of City Council — Of Petitions for Grades, Notice.**

SECTION 8. Hereafter, no new grade shall be fixed for any street, and no old grade shall be changed, except by vote of the city council. All petitions, orders and other propositions for new grades or changes of grades shall be referred to some committee, who shall investigate the case, hear all parties interested, first giving all said parties notice of said hearing by advertising in one of the newspapers of this city, and shall report thereon to the city council. Said report shall in all cases be accompanied by the written opinion of the commissioner of public works on the proposed action, and shall be subject to such action as to the city council seems proper.

**Paving — Committee to Submit Plans and Estimates for.**

SECTION 9. In all cases, before paving streets or portions thereof not paved, the commissioner of public works shall submit his plans and estimates for such proposed paving to the city council for approval. This ordinance does not apply to the paving of gutters and side drains.

**Width of Sidewalk Regulated — Sidewalk When in Repair May Be Accepted.**

SECTION 10. The commissioner of public works shall recommend to the city council such width and height for sidewalks in the streets as

shall, in his judgment, be most conducive to the convenience and interest of the city. No sidewalk shall be accepted by the city unless such sidewalks shall conform in width and height to the requirements of the city council, shall be in perfect repair, and shall be relinquished in writing by the abutters to the city.

**City to Maintain Sidewalks — Proviso.**

SECTION 11. After such relinquishment and acceptance such sidewalk shall be maintained at the expense of the city, provided that when any sidewalk shall require repair, in consequence of any defect in the cellar door, curb, step or steps, cellar window, coal hole, cellar wall, or from any other cause, within the control of the owner or occupant of the estate to which such sidewalks adjoin, then, and in that case, such repairs shall be made at the expense of the owner or occupant.

**Bricks and Sand to Be Furnished to Lay Sidewalks — To Be Laid under Direction of Commissioner of Public Works.**

SECTION 12. The commissioner of public works is authorized, whenever approved of by the committee of public works, to furnish, at the expense of the city, good bricks and sand, at the rate of five and one-half bricks for every superficial square foot of sidewalk, to any owner or occupant of any estate, adjoining which a sidewalk is necessary; and in cases where bricks are thus furnished, the sidewalk shall be laid down under the direction of said commissioner, and in all cases the person to whom the bricks are thus furnished shall pay the expense of setting the curbstone and for laying the bricks, and shall furnish such curbstone as shall be approved by said commissioner, subject in all cases to the following specifications: Each and every stone to be of first rate quality of granite, and to be at least six inches wide on top, not less than six feet long, and of uniform depth, not less than eighteen inches and to be straight lined, without wind, and free from bunches or depressions; to be pin hammered on top, and three inches down on the back; the front to be pointed down not less than twelve inches, and the ends squared and jointed the whole depth of the stone.

**When City Council Requires Sidewalks to Be Paved.**

SECTION 13. Whenever the city council may require the sidewalk or footway in front of any lot of ground, fronting on any street or way in the City of Portland, to be paved, it shall be the duty of the com-

missioner of public works to notify the owner or tenant of such lot, in writing, of such requirement. And if the owner of such lot shall refuse, or neglect to pave the same as aforesaid, to the satisfaction and approval of the committee on streets, for the space of twenty days after notice as aforesaid, it shall be the duty of said commissioner to pave such sidewalk or footway in such manner as said committee may direct.

### **City Assume One-Half the Expense.**

SECTION 14. The city council shall assume one-half part of the cost or expense of paving the sidewalks or footways of the streets of said city, as provided for in the preceding section, said cost or expense to be estimated and determined by the commissioner of public works; and the city will cause said proportion of the cost or expense of said sidewalk or footway to be paid in money or materials, as the city council shall determine and elect.

### **Assessments on Abutters, How Made and Collected.**

SECTION 15. Whenever any sidewalks shall have been constructed by the city for any part of whose construction the abutters are liable, the commissioner of public works shall, as soon as practicable, ascertain the cost of such sidewalks, and within thirty days after its completion shall make a return to the city clerk of the location of said sidewalk, its length and width, the material of which it is constructed, the cost of construction, the names of the owners or adjoining estates, and the amounts properly chargeable to each one of them.

The city clerk shall make a record of the same to the city treasurer, who shall collect the same in the manner in which sewer assessments are collected, and shall place all sums so collected to the credit of the appropriation for public works.

### **Names of Streets to Be Recorded — Sidewalk and Descriptions to Be Entered.**

SECTION 16. The city clerk shall keep a book, in which the names of the streets shall be alphabetically arranged, and in which all the sidewalks which now are, or may hereafter be accepted as aforesaid, shall be entered, with the date of such acceptance, the length and width of each sidewalk, and the names of the owner or owners of the adjoining estates.

**Alteration in Sidewalks—Posts and Trees Not to Be Set without Consent, Etc.**

SECTION 17. No person shall make any alteration in any sidewalk, or set any posts or trees on any of the sidewalks or in any part of the street, without the consent of the mayor and aldermen, or some person by them authorized. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**Notice to Be Given of Intention to Build—Rubbish, Etc., to Be Carried Away—In Case of Neglect, to Be Removed at Expense of Person—To Be Lighted—Penalties.**

SECTION 18. Every person occupying any of the streets, under authority granted by the mayor in accordance with the provisions of Section 10 of the City Charter, shall carry away all rubbish arising therefrom or thereby at such convenient time as the mayor may direct; and in case of neglect or refusal so to do, it shall be removed by the commissioner of public works, at the expense of such person or persons. In all cases the portion of the street allotted by the mayor to any person shall be enclosed and lighted as prescribed in Section 21 of this ordinance. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence, and a like sum for every day such offence shall be continued or repeated.

**Streets Not to Be Dug Up, or Gravel Removed from, without License, Etc.—Penalty.**

SECTION 19. No person or corporation shall make or cause to be made any opening in any street, court or alley within the limits of the city, or break, or dig up, or assist in breaking or digging up any part of such street, court or alley, for any purpose whatsoever, or remove any gravel or other similar thing therefrom, unless such person or corporation shall have first obtained a written license therefor from the mayor and aldermen, or from some person by them duly authorized for that purpose. No such openings shall be made, and no such street court or alley shall be opened, broken or dug up by virtue of such license, except under the direction and supervision of the commissioner of public works, and at the expense of the person or corporation procuring such license. All such openings so made shall be filled and replaced by the person or corporation obtaining such license and in

such manner as shall be satisfactory to the commissioner of public works and within the time specified in the license.

No license to open any street, court or alley shall be granted under the provisions of this section unless the applicant for such permit shall first execute and file with the city treasurer a good and sufficient bond to be approved by said treasurer and conditioned upon the performance of all the requirements of the license. Said bond shall be in a sum equal to four dollars for each linear foot of street to be opened, and shall remain in force for two years after the opening of such street, court or alley. The provisions of this section shall be held to apply to the building or repair of public sewers by or under contract with the city. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**No Drain or Aqueduct to Be Opened or Repaired without License — Penalty.**

SECTION 20. No person shall open or make any drain or aqueduct, or repair the same, by digging up the ground in any street, court, alley or other public place in the city, without first obtaining a license therefor from the mayor or from some person by him authorized, in writing, specifying in what street, court, alley, or public place the drain or aqueduct is to be made or repaired. And the person who shall dig, make or repair, or cause to be dug, made or repaired, any drain or aqueduct otherwise than as above stated, shall forfeit and pay a sum not less than five nor more than twenty dollars for each offence, and a like penalty for every day that the same shall continue open. And no excavation, made in accordance with the license so obtained, shall be refilled, until the connection made by the side or private drain with the public sewer has been inspected or approved by the commissioner of public works, or some one by him authorized for that purpose. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**When License Is Granted to Open a Drain, Etc., Streets to Be Repaired to Satisfaction of Commissioner — One-Half of Street to Be Kept Open — Railing to Be Up — to Be Lighted — Penalty.**

SECTION 21. When any person has obtained a license to open, make or repair a drain or aqueduct, he shall complete and finish the same with all possible dispatch, and shall in filling and covering up the same, do it to the satisfaction of the commissioner of public works. If



such person neglects so to do, the said commissioner shall cause the same to be done in suitable manner, at the expense of the person to or for whom said license was granted. One-half of the street shall be kept constantly open for the passing of teams or carriages, and the person who shall dig, make or repair any drain or aqueduct, shall keep a good and sufficient fence or railing around the same during the whole time of the making or repairing thereof, except when the laborers are actually at work; and shall fix a lighted lantern or some other proper and sufficient light into some part of such fence, or in some other proper manner, over or near such open drain or aqueduct, from twilight in the evening until daylight in the morning and during all the time such drain or aqueduct shall be open, or in a state of repair. Whoever violates any of the provisions of this section shall be fined not less than ten nor more than fifty dollars for each offence.

**Dangerous Lots of Land to Be Fenced -- Penalty -- Commissioner of Public Works Shall Cause Lots to Be Fenced.**

SECTION 22. Owners and lessees of any lot of land abutting on any street, lane or private way in this city, which for want of a fence or rail shall be dangerous, shall place, or cause to be placed in front of said lot, upon or near the line of said street, lane or private way, a fence, rail or guard, which in the opinion of the commissioner of public works shall be a sufficient guard or protection to the public from danger, by reason of the situation of such lot. And if any owner or lessee of such lot shall refuse or neglect compliance with the requirements of this section, he shall on conviction pay a penalty of not less than one dollar, nor more than five dollars for every day during which such lot shall remain unfenced; and if the owners or lessees aforesaid shall neglect or refuse for two days after notice in the premises, from the city marshal or any police officer, to build or cause to be built such fence or guard, the commissioner of public works shall forthwith cause a proper fence or rail to be constructed in front of such lot, at the cost of the owners or lessees thereof. (See City Charter, Section 16.)

**Lumber Stones and Building Materials Not to Be Placed in Streets to Remain over Six Hours -- Penalty -- May Be Removed at Expense of Owner.**

SECTION 23. No person shall place or cause to be placed in any of the streets, alleys, squares or other public places of the city, any lumber, stone, or building materials of any kind, and suffer the same to

remain over six hours, without the permission of the mayor, or of some person by him authorized. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence, and the city marshal may remove any such lumber or other materials at the expense of the owner or owners thereof. •

### **Proceedings When Owners Refuse to Remove Them — To Be Sold at Auction.**

SECTION 24. When the owner or owners of any such articles mentioned in the preceding section shall be unknown, or being known, after notice by the city marshal, shall neglect or refuse to remove the same within the space of twenty-four hours, unless the mayor or some person by him authorized shall give permit that the same may longer remain, it shall be the duty of the city marshal, or deputy marshals, to cause the same to be advertised, and unless such articles or things shall be duly removed, within forty-eight hours after the same shall be so advertised, and the cost thereof paid, he shall cause the same to be sold at public auction, and after deducting the reasonable expenses and charges of such sale, he shall pay the balance into the city treasury.

### **Streets Must Be Kept Clear of Obstructions by Persons Who Have Leave to Occupy.**

SECTION 25. Whenever any permit is granted to occupy any portion of any street, it shall be the duty of the holder of the permit to keep the gutter clear of obstructions, unless for sufficient cause the mayor or commissioner of public works shall allow him to enclose it, giving him therefor a written permit, in which case he shall build and maintain a temporary plank walk, not less than three feet in width, around the portion of the street occupied, the same to be to the satisfaction of the commissioner of public works, and not to extend outside of the portion of the street allotted in his permit. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence, and a like sum for every day such offence is continued or repeated.

### **Excavations near Streets.**

SECTION 26. Any person who shall make any excavation, or hereafter increase any excavation near any street or public way in this city, so as to endanger any portion thereof, without first making written

application to the mayor and aldermen, setting forth its nature and extent, and obtaining their consent, and requesting and obeying their instructions in the premises, shall be fined not less than twenty nor exceeding one hundred dollars for each offence.

**Opening Streets Where Water or Gas Pipes Are Laid.**

SECTION 27. Hereafter in all cases when a person or corporation is about to open any portion of any street where the water pipes of the Portland Water Company are laid, when such opening shall intersect, lay open or in any manner interfere with the water pipes of the Portland Water Company, such person or corporation, before proceeding to make such opening, shall give reasonable notice of the time and place of such opening to be made to the Portland Water Company, or its secretary, by leaving the same at the office of said company. When a person or corporation is about to open any portion of any street where the mains of the Portland Gas Light Company are laid, when such opening shall intersect, lay open, or in any manner interfere with the mains of the Portland Gas Light Company, such person or corporation, before proceeding to make such opening, shall give reasonable notice of the time and place of such opening to be made to the Portland Gas Light Company, or its treasurer, by leaving the same at the office of said company. Whoever violates any of the provisions of this ordinance shall be fined not exceeding twenty-five dollars.

**Streets Shall Not Be Obstructed by Moving of Buildings —  
Building Obstructing Streets to Be Removed at Expense  
of Owners.**

SECTION 28. No person shall obstruct any street, or any part thereof, by placing therein any house, barn, stable, shop or other building, and no person shall remove or draw through or upon any street, any house, barn, stable, shop or other building, without first obtaining permission of the mayor and aldermen, and filing a bond with sufficient sureties, approved by the mayor, with the treasurer of the city, conditioned to indemnify the city for all damages sustained by drawing or moving such building; and if any building shall remain in any street or place, beyond the time allowed by such permit, it shall be the duty of the city marshal, when directed by the mayor and aldermen, to cause such building to be taken down or removed out of the street at the expense of the owner thereof.

**Penalties.**

SECTION 29. Whoever violates either of the provisions of the preceding section shall be fined not less than fifty dollars for each offence, and shall further be liable to indemnify the city for all damages to which it may be subjected in consequence of such violation.

**Signs, Etc., Not to Project into Streets — Penalties.**

SECTION 30. No person shall hang, erect or fasten any sign, show bill, lantern, or show board of any description whatever, which shall project into any street more than one foot. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence, and a like penalty for every day such sign, show bill, lantern, or other board shall be continued after an order to remove the same, given by the mayor and aldermen, or any person authorized by them. (See 104 Mass. 75, 106 Mass. 458, 115 Mass. 217, 117 Mass. 114, 67 Pa. St. 355, 74 N. Y. 264, 12 Gray 161, 13 Gray 59, 13 Met. 292, 5 Allen 98, 34 Conn. 136.)

**No Goods or Merchandise to Be Placed so as to Project into Street — Penalty.**

SECTION 31. No person shall place or cause to be placed, or shall suspend, or cause to be suspended, from any house, shop, store, lot or place, over any street, any goods, wares or merchandise whatsoever, or any other thing, so that the same shall extend or project from the wall or front of said house, store, shop, lot or place, more than one foot towards or into the street. Whoever violates any of the provisions of this section shall be fined not less than three nor more than twenty dollars for each offence.

**Awnings May Be Placed — Regulations.**

SECTION 32. It shall be lawful to place, or continue to maintain awnings and shades before any house, shop or store, in any street, upon the terms and under the regulations mentioned in this section, and not otherwise; provided that the mayor and aldermen, as to particular buildings or streets, may order that no awnings or shades shall be erected. Such awnings or shades shall be safely fixed and supported, in such manner as not to interfere with passengers, and so that the lowest part thereof shall never be less than eight feet in height, above the

sidewalk or street, and in no case to extend beyond the line of the sidewalk; and the person so placing or continuing to maintain the same shall in all respects conform to any directions in relation to the materials, the construction and maintenance thereof, which shall be given by the mayor and aldermen. Whoever violates any of the provisions of this section, or such directions of the mayor and aldermen, shall be fined not less than three nor more than twenty dollars, and a like sum for every day that such awning or shade shall be continued in violation of such provision or direction. 12 Gray 161, 13 Gray 59, 46 N. Y. 639, 74 N. Y. 264, 120 N. Y. 98, 13 Met. 292, 5 Allen 98, 104 Mass. 75, 34 Ct. 136, 67 Pa. St. 355.

### **Cellar Doors, Etc., to Be Kept in Repair.**

SECTION 33. Whenever any cellar door, or the platform thereof, shall project into any of the streets, lanes, alleys, public squares, or places, within the city, it shall be the duty of the owners and occupants of the buildings or estate to which the same belong, to keep the same in good repair, and if at any time the said cellar door or platforms are out of repair, so that in the opinion of the mayor and aldermen the safety of the inhabitants is thereby endangered, the mayor and aldermen are hereby authorized to notify the said owners and occupants of the fact; and if said owners or occupants neglect or refuse for the space of twenty-four hours to repair the same, the said mayor and aldermen shall forthwith cause the same to be repaired at the expense of said owners or occupants; and said owners or occupants shall, in case of such neglect or refusal as aforesaid, be further liable to a fine of not less than one, nor more than twenty dollars, for each and every day that said cellar door, or the platform thereof, shall continue to be out of repair.

### **Cellar Doors, Etc., When to Be Lighted.**

SECTION 34. Whenever any of the cellar doors before mentioned are opened, or the the platform thereof removed at any time during the night, it shall be the duty of the occupant of the cellar to which the same belongs, to cause a sufficient light to be so placed that the opening of the said door or removal of said platform, shall at all times during the night be distinctly visible. Whoever violates any of the provisions of this section, shall be fined not less than one nor more than twenty dollars for each offence.

**Cellar Doors, Etc. — Not to Remain Open unless Licensed —  
Light to Be Kept at Entrance — Penalties.**

SECTION 35. It shall not be lawful to construct or to continue to maintain any cellar door or cellar doorway, in any sidewalk, or projecting into any street, for the purpose of being kept open as a common entrance, except as herein provided. No occupant or other person having the care of any building, shall suffer any cellar door, or cellar doorway, connected with such building, which projects into any street to remain open, or the platform thereof to be removed more than fifteen minutes during any part of the night time, or for more than two hours in the whole during the day time, unless duly licensed so to do by the mayor and aldermen, and in all cases whenever any such cellar door or doorway shall be open in the night time as aforesaid, a good and sufficient light shall be kept at the entrance of such door or doorway. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**Entrance and Steps to Be Secured with Railings or Chains —  
Light to Be Placed — Penalties.**

SECTION 36. Every entrance or flight of steps descending immediately from any street, into any cellar or basement story of any building, where such entrance or flight of steps shall not be safely and securely covered, shall be enclosed with a railing on each side, permanently put up, at least three feet high from the top of the sidewalk or pavement, together with either a gate to open inwardly, or two iron chains across the front of the entrance way, one near the top and the other half way to the top of the railing; and such gate or chains shall, unless there be a light over the steps to prevent accidents, be closed during the night. Whoever violates any of the provisions of this section, shall be fined not less than five, nor more than twenty dollars, and a like penalty for each and every day during which such violation continues, which penalty may be recovered of the owner, occupant or other person having charge of such building.

**Apertures and Coal Holes Not to Be Made without License —  
Penalty — Not to Be Left Open — Penalty.**

SECTION 37. No person shall make, or cause to be made, any aperture in or under any street or sidewalk, for the purpose of constructing coal holes, or receptacles for any other article, or for light or air, or for an entrance or for any other purpose, extending more than eighteen

inches into the street, without the license of the mayor and aldermen, under a penalty of not less than two nor more than twenty dollars for each offence, and a like penalty for every day the same shall remain after notice to securely fill up and close the same, given by the mayor, or city marshal, or deputy marshal; and no person shall leave such coal hole or other aperture open or unfastened after sunset, nor in the day time unless while actually in use, with a person or persons by the same. Whoever violates any of the provisions of this section shall be fined not less than two nor more than ten dollars for each offence.

**Gratings in Sidewalks Not to Extend More than Eighteen Inches — Penalties.**

SECTION 38. No person shall affix or place, or cause to be affixed or placed, or continue in any street or sidewalk, any grating, extending more than eighteen inches into the street, without the license of the mayor and aldermen. Whoever violates any of the provisions of this section shall be fined not less than two nor more than twenty dollars for each offence, and a like sum for every week the same shall remain after notice to remove the same given by the mayor, city marshal or deputy marshal.

**Mayor and Aldermen May Authorize the Construction of Coal Holes and Gratings — Not to Extend More than Three Feet.**

SECTION 39. The mayor and aldermen, upon application therefor, may authorize the construction of coal holes or apertures for the purposes hereinbefore mentioned, and gratings therefor, to extend more than eighteen inches into the street, in such manner as they deem suitable, and under the direction of the commissioner of public works, or some person by him authorized, at the expense of the applicant; and they may also authorize the continuance of any grating already constructed, provided that in no case shall any grating be authorized to extend more than three feet into the street.

**Encroachments on Streets.**

SECTION 40. It shall be the duty of the city marshal, commissioner of public works and inspector of buildings to give notice to the mayor of all encroachments made or threatened upon the streets or other public places in the city, or upon the property of the city, forthwith upon obtaining information thereof, and the mayor shall cause the provisions of this ordinance to be enforced against all persons violating the same.

## OFFENCES IN STREETS.

**Penalty for Defacing Buildings, Etc.**

SECTION 41. Every person who shall be guilty of defacing any building or buildings, fence, sign or other property, in the city, by cutting, breaking, daubing with paint, or in any other way defacing or injuring the same, or who shall throw any stones, chips or any other thing against any building or buildings, with intent to injure the same, or to annoy or disturb any person who may be therein, shall forfeit and pay a sum not less than five nor more than twenty dollars.

**Posters Not to Be Placed on Buildings — Penalty.**

SECTION 42. No person shall post or stick up any poster or other bill, or any advertisement or notice of any kind, on any building or fence, without the consent of the owners or occupants thereof. Whoever violates any of the provisions of this section shall be fined not less than one nor more than ten dollars for each offence.

**Persons Not to Play Bat and Ball — Not to Throw Snow Balls — Penalty.**

SECTION 43. No person shall play at bat and ball or foot ball, or throw any ball, stones, brick bats, clubs, or snow balls within any of the streets, alleys, squares, or other public places of the city. Whoever violates any of the provisions of this section shall be fined not less than one nor more than twenty dollars for each offence.

**Not to Shoot with Bow and Arrow — Penalty.**

SECTION 44. No person shall shoot with or use a bow or arrow, air guns or sling shots of any description, within any of the streets, alleys, squares, or other public places of the city. Whoever violates any of the provisions of this section shall be fined not less than one nor more than twenty dollars for each offence.

**Not to Fly Kites — Not to Coast on Sleds or Skate — Penalty.**

SECTION 45. No person shall set or fly a kite, or shall course or coast upon a sled or skate on any sidewalk of any of the streets, alleys, or public places of the city. Whoever violates any of the provisions of this section shall be fined not less than one nor more than ten dollars for each offence. (See R. S., Chapter 3, Sections 44 and 45.)



**Gaming Tables and Devices Not to Be Exposed in Streets —  
No Person to Play at Unlawful Games in Street.**

SECTION 46. No person shall expose within any of the streets, alleys, squares, or other public places of the city, any table or device of any kind whatsoever, upon or by which, any game of hazard or chance can be played, and no person shall play at any such table or device, or at any unlawful game within any of the streets, alleys, squares or other public places, or on any of the wharves of the city. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for either of said offences.

**No Person to Swim or Bathe in Exposed Situations —  
Penalty.**

SECTION 47. No person shall swim or bathe in the waters surrounding the city, which are adjacent to any of the wharves, bridges, avenues or railroads leading into the same, except in such places as shall be designated by the city marshal, nor unless such person shall be suitably clothed. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**Making Noises in Streets Forbidden.**

SECTION 48. No person shall within any of the streets, alleys, squares, or other public places, make any loud and unusual noises, by shouting, sounding horns, drums, or any instrument or thing, nor sing, nor utter any obscene and indecent songs or words, nor shall in any other unruly or boisterous manner disturb the peace, quiet and good order of the city. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**Horses or Animals Not to Be Frightened — Penalty.**

SECTION 49. No person shall, within any of the streets, alleys, squares or public places of the city, by means of any words, noises, gestures or any other act, wantonly frighten or drive any horse or other animal. Whoever violates any of the provisions of this section shall be fined not less than five dollars nor more than twenty dollars for each offence.

**Grinding Cutlery, Etc., in Streets Forbidden, unless  
Licensed.**

SECTION 50. No person shall stand within any of the streets, alleys, squares, or other public places, or on any sidewalk for the purpose of

grinding cutlery, or for the sale of any article, or for the exercise of any other business or calling, unless duly licensed by the mayor and aldermen. Whoever violates any of the provisions of this section shall be fined not less three nor more than twenty dollars for each offence.

**Carriages, Handcarts, Etc., Not to Go on Sidewalks — Horses or Animals Not to Stand Upon.**

SECTION 51. No person shall drive, wheel or draw any coach, cart, handcart, handbarrow or other carriage of burthen or pleasure, except children's hand carriages, and drawn by hand ; or drive or permit any horse or other animal under his care to go or stand upon any footpath or sidewalk in the city. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**Wood Not to Be Sawed or Split upon.**

SECTION 52. No person shall saw or split any firewood upon any footwalk or sidewalk of any street, nor place the same thereon, and no person shall stand on any such foot or sidewalk, with a woodsaw or horse, so as to obstruct a free passage for foot passengers. Whoever violates any of the provisions of this section shall be fined not less than one nor more than twenty dollars for each offence.

**Goods Not to Be Placed upon Foot or Sidewalks, to Obstruct, Etc. — Penalty — Penalty for Suffering to Remain after Notice — Proviso.**

SECTION 53. No person shall place, or cause to be placed, upon any footpath or sidewalk in the city, any lumber, iron, coal, trunk, bale, box, crate, cask, package, or article or thing whatsoever, so as to obstruct a free passage for foot passengers, for more than ten minutes, under a penalty of not less than three nor more than twenty dollars ; and if such person shall suffer such obstruction to foot passengers to remain more than one hour after it is first placed there, or more than ten minutes after notice to remove the same, given by the city marshal, deputy marshal, or any police officer, the person or persons so offending shall be liable to a penalty of not less than five nor more than ten dollars for every such offence ; and for each and every hour thereafter that the same shall be suffered to remain, the person or persons so offending shall be liable to a penalty of not less than five nor more than ten dollars. Provided, that nothing contained in this section shall be

deemed to extend to such goods, wares, or merchandise as shall, in conformity with such rules, regulations and orders, be made by the mayor and aldermen upon the subject, be placed in any street, alley, square or place, for the purpose of being sold at public auction.

**Vessels or Boats Not to Be Made Fast to Sea Wall or Coping Stones, Not to Lay so as Jibboom, Etc., May Project — Articles Not to Be Shipped or Landed over Coping Stones.**

SECTION 54. No vessel or boat of any description shall be allowed to be made fast to the sea wall or coping stone, or any other part of Commercial street, nor lay at the head of any dock along said street, so that the jibboom or bowsprit, or any other fixture of the vessel or boat shall project over the line of the street, so as to obstruct the passage way, nor shall any article be landed from, or be shipped on board any vessel or boat, on or over the coping stone of said street. Every person or corporation, master or owner of any vessel or boat, violating any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

**Broken Glass, Etc., Not to Be Thrown in Streets.**

SECTION 55. No person shall throw, place or deposit, or cause to be thrown, placed or deposited, in any street, square, lane or alley, any glass, broken bottles, tacks, nails, pieces of wire or any other substance or article that may be injurious to horses' feet, to bicycle tires or to tires of wheels of all kinds. Whoever violates any of the provisions of this section shall be fined not less than five nor more than twenty dollars for each offence.

(Loitering on Streets, see Chapter 61, Page 468.)

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**REGULATIONS RESPECTING THE LAYING OF GAS PIPES  
IN STREETS.**

Regulations and restrictions in relation to the laying down and taking up of pipes and fixtures in and through the streets of the city by the Portland Gas Light Company, prescribed and established pursuant to the provisions of Section 3 of the charter of said company, January 25, 1855.

**Company to Give Notice to the Commissioner of Streets of Commencement of Work -- of Completion -- Commissioner of Public Works to Examine Same.**

SECTION 1. Said company before digging up the ground in any street, for the purpose of laying down, taking up, or repairing any gas pipes or fixtures, shall give notice in writing to the commissioner of streets of said city, of their intention so to do, specifying the street or streets, and the points of commencement and termination of their proposed works; and when said work is completed they shall give notice thereof in writing to said commissioner, who shall proceed immediately to examine into the manner said work has been done, and if the same has been done to his satisfaction, he shall certify the same to said company. But in searching for leaks or obstructions, or in repairing pipes that are leaking or in removing obstructions, the company is required to give the last named notice only.

**Streets Not to Be Dug Up, Etc., without Consent of Mayor and Aldermen -- Penalties -- Streets Not to Be Dug Up, Etc., before Pipes Are Ready to Be Laid Down.**

SECTION 2. No street or sidewalk, or any part thereof, shall be dug up or broken into, for the purpose of laying service pipe, or setting lamp posts, between the first day of December and the fifteenth day of April of each year, without the permission of the mayor and aldermen, in writing, under a penalty of twenty dollars, and a further penalty of twenty dollars for each and every day or part of a day, that the work is in progress. Nor shall the streets, nor any part hereof, be dug up or broken into for the laying of main pipes, between the first day of November and the first day of May in each year, under a penalty of twenty dollars for each offence, and a further penalty of twenty dollars for every day or part of a day that the work shall be in progress, or the street remain broken as aforesaid. Nor shall any street or any part thereof be dug up or broken into before the gas pipes are prepared and placed in the vicinity ready to be laid down.

**Liability of Company for Damages.**

SECTION 3. Said company shall be liable for all damages occasioned by the digging up and opening any street, or obstructions therein by said company, as follows, viz.: For all or any such works, done before the first day of November, they shall be liable for all damages occasioned thereby, for the space of sixty days from and after the approval certified as aforesaid by said commissioner, and for all or any such works done

after said first day of November, they shall be so liable until the fifteenth day of June next following, of each year.

**Trenches Made to Be Fenced and Lighted.**

SECTION 4. All trenches left open after dark, shall, by said company, be safely railed or fenced in, and be sufficiently lighted to protect the public from damage or accident therefrom.

**Work to Be Done with Convenient Dispatch — Streets to Be Repaired — Materials, Rubbish, Etc., to Be Removed — Company to Repair Streets to Satisfaction of Commissioner — In Case of Refusal, to Be Repaired at Expense of Company.**

SECTION 5. Whenever any street, or any part thereof, is taken up for the purposes aforesaid, said company shall perform the work proposed to be done with all convenient dispatch, and as soon as the same is done they shall repair such street and put the same in as good condition as it was in before such taking up, and shall cause all surplus earth, stones, materials and rubbish to be immediately removed from the street; and whenever such street, or any part thereof, or any pavement thereon, shall thereafter and within the time specified in Section 2, settle or become out of repair by reason of the works aforesaid, the said company shall thoroughly and completely repair the same, to the satisfaction of said commissioner of streets. In case said company refuse or neglect to repair the same, after one day's notice therefor by said commissioner, he shall proceed to repair the same at the expense of said company.

**Restrictions Respecting Pipes Laid in Contact with Drains or Sewers — Course of Drain, Etc., May Be Changed.**

SECTION 6. Whenever any of said pipes, in laying them down, shall come in contact or interfere with any drain or sewer, said pipes shall be laid under or over such drain or sewer, unless in the opinion of the committee on drains and sewers, it shall be necessary to change the direction of such drain or sewer, in which case the same shall be done by said company under the direction and to the satisfaction of said committee.

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## SUPERINTENDENT OF BURIALS.

(See Chapter on Health, page 423.)

## **CHAPTER 91.**

# **SURVEYOR OF STONE.**

### **Ordinances.**

#### **One or More Surveyors of Stone to Be Appointed — To Be Sworn.**

SECTION 1. There shall annually be elected by the city council one or more suitable persons as surveyors of granite, marble and freestone, who shall be sworn to the faithful performance of the duties of said office, and who shall continue in office until removed, or until a successor is elected and qualified.

#### **Duties.**

SECTION 2. It shall be the duty of said surveyors to measure and inspect all granite, marble, freestone and other stone, for building or any other purposes, which they shall be requested to measure or inspect.

#### **Fees.**

SECTION 3. Said surveyors shall be entitled to demand and receive in full for their services the following rates, viz.: Ten cents for each ton of marble, granite or freestone, thus measured or inspected by them.

## CHAPTER 92.

# TAXES.

### BOARD OF STATE ASSESSORS.

#### **State Board of Assessors, Shall Be Chosen.**

SECTION 1. A board of State assessors shall be chosen biennially by the legislature by joint ballot of the senators and representatives in convention, consisting of three members, not more than two of whom shall be taken from the same political party, who shall take and subscribe the oath provided by the constitution of this State, and hold their offices as provided in the following section. (P. L., 1891, Chapter 103, Section 1.)

#### **Tenure—Chairman—First Meeting.**

SECTION 2. The term of office of said assessors under said Section 1 shall be, one for two years, one for four years, and the other for six years, and until their several successors are elected and qualified; and the member having the shortest time to serve shall be chairman of the board. Said State assessors shall be elected after the approval of this act by the legislature now in session, and shall hold their first meeting at the State capital within thirty days thereafter. The assessors thereafter elected shall hold office for the term of six years each, excepting elections made to fill unexpired terms. (Ib., Section 2.)

#### **Powers.**

SECTION 3. Said board of State assessors shall have power to summon before them and examine on oath any town assessor or other officer or person whose testimony they shall deem necessary in the proper discharge of their duties, and may require such witnesses to bring with them, for examination, any records or other public documents in their custody or control which said State assessors may deem necessary for their information in the performance of their duties. Each of said assessors shall have power to administer all oaths required by this Act. (Ib., Section 3.)

**Any Two May Transact Business, but All Must Be Notified of Meetings—Vacancies, How Filled—When and Where Meetings Shall Be Held.**

SECTION 4. Any two of said board shall have authority to transact all business appertaining to their office, but all three must be duly notified of each and every meeting for the transaction of business. In case of the death, resignation, refusal, or inability to serve of any one or more of said board, the governor with advice and consent of the council, shall, as soon as may be, fill such vacancy by appointment, and the assessor so appointed shall hold said office until his successor is elected by the next legislature and qualified. Said board shall hold a meeting at the State capital on the first Tuesday of each month. (Ib., Section 4.)

**Shall Furnish Town Assessors with Blanks.**

SECTION 5. Said State assessors shall seasonably furnish to the town assessors blanks on which to return the aggregates required by Section 16, and shall have the required oath printed thereon. (Ib., Section 5.)

**Shall Assess Taxes on All Corporations.**

SECTION 6. Said State assessors shall do and perform all the acts and duties now required by law to be done by the governor and council relating to the assessing and taxing of railroad corporations and associations, and all corporations, companies or persons doing telegraph, telephone or express business within the State, and shall assess all taxes upon corporate franchises. (Ib., Section 6.)

**Report Annually to Governor and Council.**

SECTION 7. The State assessors shall annually, before the first day of December, make a report to the governor and council of their proceedings and shall include therein a tabular statement of all statistics derived from returns from local assessors, with schedules of all corporations on which State taxes were assessed during the year, and for the years in which they shall equalize the valuation of the State, their report shall include tabular statements of the State valuation by towns. (Ib., Section 7.)

**Shall Equalize State Tax and Fix Valuation of Towns.**

SECTION 8. Said State assessors shall constitute a State board of equalization, whose duty it shall be to equalize the State tax among the



several towns and unorganized townships, according to their several valuations, to fix the valuation of real and personal estate on which the State and county taxes shall be levied in each town and unorganized townships; and to perform the duties heretofore devolving upon the legislature in the apportioning of the State taxes among the several towns of the State. (Ib., Section 8.)

**Shall Hold Sessions in Every County of the State—Traveling Expenses Shall Be Allowed—Notice of Sessions—Town Assessors Required to Attend Meetings and Answer Questions—Penalty, if Town Assessors Fail to Attend Meetings.**

SECTION 9. Said State assessors shall visit officially every county in the State at least once in two years, and shall there sit such times and places as they may deem necessary to secure information to enable them to make a just and equal valuation of the taxable property in any place therein and to investigate charges of concealment of property liable to assessment. Said State assessors shall receive for such official visits, in addition to their salaries, the amount actually paid by them for traveling expenses, said expenses to be allowed by the governor and council on properly itemized accounts. The State assessors shall give such public notice of said meetings as they deem proper, and shall give to each board of town assessors a notice by mail of the time and place of such meetings. Said board of town assessors or some member or members of them shall attend said meeting, having with them the then last list or books giving the valuation of all taxable property in their respective towns. They shall answer under oath, if required, such questions pertaining to the valuation of their towns as the State assessors may put to them. Said meetings shall be under the general direction of the State assessors and governed by such rules of order as said State assessors shall make and announce. Any town whose assessors shall fail to attend said meetings, without excuse satisfactory to the State assessors, shall be liable to pay the reasonable expenses of the State assessors or of any person or persons appointed by the State assessors, incurred in making examination of the lists or books of said towns or in getting other evidence pertaining to the valuation of the property in such town. Towns shall pay to said town assessors a reasonable compensation and actual expenses incurred in complying with the requirements of this Act. (Ib., Section 9.)

**Rooms, Books, Stationery, Etc., Shall Be Furnished — Clerk Hire.**

SECTION 10. Said State assessors shall be provided with suitable rooms in the State house, and shall be furnished by the secretary of State with necessary books, blanks, stationery, notices and summonses, and may employ such clerical assistance as they shall deem necessary, at an expense not exceeding one thousand dollars per annum. (Ib., Section 10.)

**Shall File with the Secretary of State, Biennially, a State Valuation as Fixed by the Board.**

SECTION 11. A statement of the amount of the assessed valuation of each town, township and lot or parcel of land not included in any township, after adjustment as provided by Section 13, the aggregate amount for each county, and for the entire State as fixed by the board of equalization, shall be certified by said board and deposited in the office of the secretary of State as soon as completed, and before the first day of December preceding the regular sessions of the legislature. The valuation thus determined shall be the basis for the computation and apportionment of the State and county taxes, until the next biennial assessment and equalization. (Ib., Section 11.)

**Shall Be Vigilant and Prompt in Discharge of Duties — Salary.**

SECTION 12. Said State assessors shall be held to constant attendance upon the duties of their office; shall be vigilant and prompt in the correcting and equalizing of valuations and in the investigation of charges of concealed property liable to assessment. Said State assessors shall receive a salary of fifteen hundred dollars each, which shall be in full for all services and expenses except as provided in Section 9. (Ib., Section 12.)

**Equalize Assessment List of Each Town.**

SECTION 13. Said State assessors shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its full market value. (Ib., Section 13.)

**If Assessors of Any Town Fail to Furnish Information,  
Board May Report Such Valuation as It May Deem  
Just.**

SECTION 14. If the assessors of any town, or one of them, shall fail to appear before said board of equalization or to transmit to them the lists hereinbefore named within ten days after the mailing or publication of notice or notices to them, to so appear or transmit said lists, the said board may in its discretion report the valuation of the estates and property and lists of polls liable to taxation in the town so in default, as it shall deem just and equitable. (Ib., Section 14.)

**Land Agent Shall Furnish Board with Full Lists of All  
Wild Lands, Etc.—County Commissioners Shall, An-  
nually, Return Value of All Wild Lands—Owners of  
Wild Land Shall Appear before Board and Render  
Lists—Owners of Less than Five Hundred Acres, Ex-  
empted.**

SECTION 15. The land agent shall prepare and deliver to said State assessors full and accurate lists of all townships or parts of townships or lots or parcels of wild lands in this State sold and not included in the tax lists, whether conveyed or not, and shall lay before said State assessors all information in his possession touching the value and description of wild lands at their request; also a statement of all lands on which timber has been sold or a permit to cut timber has been granted by lease or otherwise. All other State officers, when requested shall, in like manner lay all information in their possession touching said valuation before said State assessors. On or before the first day of August, 1894, and on or before the first day of August, biennially thereafter, the county commissioners of any county, in which are any wild lands as heretofore described in this section, shall return to said State assessors in books prepared for that purpose, the fair value of each and every township lot or parcel of wild land. In fixing the valuation of unorganized townships, whenever practicable, the lands and other property therein, of any owners may be valued and assessed separately. All owners of wild lands or of rights of timber and grass on public lots, shall either in person or by authorized agent, appear before the board of State assessors at times and places of holding sessions in the counties where said lands are located, or at any regular meeting of the board held elsewhere on or before the first day of August of each year preceding the regular legislative session of this State; and render unto them

a list of all wild lands thus owned, either in common or severalty, giving the township, number, range and county where located, part owned and an estimate of its fair value; and answer such questions or interrogatories as said board may deem necessary in order to obtain a full knowledge of the just value of said lands. Owners of less than five hundred acres of such lands in any township shall be exempted from the provisions of this section. Any owners of wild lands herein named who, after notice in writing so to do, shall fail to furnish all the information hereinbefore required within sixty days from the time he receives such notice, shall be liable to pay the reasonable expenses of the State assessors or of any person or persons, not exceeding two, appointed by the State assessors, incurred in making examination of said wild lands. The amount of said expenses shall be determined by said assessors, and an action of debt to recover the same shall lie in the name of the treasurer of State. (Ib., Section 15.)

**Assessors of Towns Shall Annually, under Oath, Make Return to Board — Form of Oath.**

SECTION 16. The assessors of each town shall, on or before the first day of August annually, make and return on blank lists which shall be furnished by the State assessors for that purpose, aggregates of polls and of the valuation of each and every class of property assessed in their respective towns, with the total valuation and percentage of taxation, and before transmitting the same to the State assessors shall make and subscribe on said aggregates, an oath or affirmation, as follows:

We, the assessors of the ——— of ———, do swear, (or affirm) that the foregoing statement contains true aggregates of the valuation of each class of property assessed in said town of ——— for the year ———, and that we have followed all the requirements of law in valuing, listing and returning the same. So help me God (or under the pains and penalties of perjury.)

(Ib., Section 16.)

**Assessors May, upon Knowledge of Clerical Error, Make Abatement of Taxes.**

SECTION 17. The board of State assessors may upon knowledge of any clerical error made by said board in the apportionment of any taxes upon the property of any person, corporation or municipality within this State, make an abatement of such proportion of said taxes, and shall furnish the State treasurer with a list of such abatements and the amount of the same; and such amount or amounts shall be deducted from the tax upon said property. (P. L., 1893, Chapter 201, Section 1.)

**May Abate Tax, When Property Has Been Doubly Taxed.**

SECTION 18. The board of State assessors, upon the certificate of the State treasurer, that any piece or parcel of property in the State has been doubly taxed in any year, and that a moiety of such tax has been paid, may abate the balance remaining unpaid, and said tax or taxes shall be canceled upon the treasurer's books. (Ib., Section 2.) (See also P. L., 1901, Chapters 260, 286.)

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**THE ASSESSMENT AND COLLECTION OF TAXES — GENERAL PROVISIONS RESPECTING TAXATION.**

(Revised Statutes, Chapter 6.)

**Poll Tax, on Whom Assessed.**

SECTION 1. A poll tax shall be assessed upon every male inhabitant of the State above the age of twenty-one years, whether a citizen of the United States or an alien, in the manner provided by law, unless he is exempted therefrom by this chapter.

**Real and Personal Estate, Taxable.**

SECTION 2. All real property within the State, all personal property of inhabitants of the State, and all personal property hereinafter specified of persons not inhabitants of the State, is subject to taxation as hereinafter provided.

**Real Estate, What It Includes — Land and Interest in Timber, Taxable.**

SECTION 3. Real estate, for the purposes of taxation, except as provided in Section 6, includes all lands in the State and all buildings erected on or affixed to the same, and all townships and tracts of lands, the fee of which has passed from the State, since the year 1850, and all interest in timber upon public lands derived by permits granted by the Commonwealth of Massachusetts; interest and improvements in land, the fee of which is in the State; and interest by contract or otherwise in land exempt from taxation.

**Railroad Buildings, Etc., Subject to Municipal Tax, as Non-Resident Land.**

SECTION 4. The buildings of every railroad corporation or association, whether within or without the located right of way, and its lands

and fixtures outside of its located right of way, are subject to taxation by the cities and towns in which the same are situated, as other property is taxed therein, and shall be regarded as non-resident land.

### **Personal Estate, Taxable.**

SECTION 5. Personal estate, for the purposes of taxation, includes all goods, chattels, moneys and effects, wheresoever they are; all vessels, at home or abroad; all obligations for money or other property; money at interest, and debts due the persons to be taxed more than they are owing; all public stocks and securities; all shares in moneyed and other corporations within or without the State, except as otherwise provided by law; all annuities payable to the person to be taxed, when the capital of such annuity is not taxed in this State; and all other property, included in the last preceding State valuation for the purposes of taxation.

### **Exemptions.**

SECTION 6. The following property and polls are exempt from taxation:

#### **United States and Maine Property.**

I. The property of the United States and of this State.

#### **Property of Literary and Benevolent Institutions Exempt from Taxation — Colleges Whose Real Estate Is Liable to Taxation, Shall Be Reimbursed by the State — Proviso.**

II. All property which by the articles of separation is exempt from taxation; the personal property of all literary and scientific institutions; the real and personal property of all benevolent and charitable institutions incorporated by the State; the real estate of all literary and scientific institutions occupied by them for their own purposes or by any officer thereof as a residence. Corporations whose property or funds in excess of their ordinary expenses are held for the relief of the sick, the poor or the distressed, or of widows and orphans, or to bury the dead, are benevolent and charitable corporations within the meaning of this specification, without regard to the sources from which such funds are derived, or to limitations in the classes of persons for whose benefit they are applied except that so much of the real estate of such corporations as is not occupied by them for their own purposes, shall be

taxed in the municipality in which it is situated. And any college in this State authorized under its charter to confer the degree of bachelor of arts or bachelor of science, and having real estate liable to taxation, shall, on the payment of such tax and proof of the same to the satisfaction of the governor and council be reimbursed from the State treasury to the amount of the tax so paid; provided, however, the aggregate amount so reimbursed to any college in any one year shall not exceed fifteen hundred dollars; and provided further, that this claim for such reimbursement shall not apply to real estate hereafter bought by any such college.

#### **Furniture, Apparel, Tools, Etc.**

III. The household furniture of each person, not exceeding two hundred dollars to any one family, his wearing apparel, farming utensils, mechanics' tools necessary for his business, and musical instruments not exceeding in value fifteen-dollars to one family.

#### **Meeting-Houses, Tombs and Parsonages — Personal Property Not Exceeding Six Thousand Dollars.**

IV. Houses of religious worship, including vestries, and the pews and furniture within the same, except for parochial purposes; tombs and rights of burial; and property held by a religious society as a parsonage, not exceeding six thousand dollars in value, and from which no rent is received, and personal property not exceeding six thousand dollars in value. But all other property of any religious society, both real and personal, is liable to taxation the same as other property.

#### **Young Animals.**

V. All mules, horses, neat cattle, swine and sheep, less than six months old.

#### **Produce.**

VI. Hay, grain and potatoes, orchard products and wool, owned by, and in possession of the producer.

#### **Indians and Wards.**

VII. The polls and estates of Indians; and the polls of persons under guardianship.

#### **Polls of Aged, Infirm, and Soldiers and Sailors Exempt.**

VIII. The polls and estates of persons who by reason of age, infirmity, and poverty are in the judgment of the assessors unable to

contribute toward the public charges; and the polls of all soldiers and sailors who receive State pension.

### **Highway Tax on Islands.**

IX. The polls and estates of inhabitants of islands on which there are no highways, may be exempted from the highway tax at the discretion of the town to which they belong.

### **Aqueducts and Fixtures, Conditionally — But not the Stock, Reservoir, Grounds or Property.**

X. The aqueducts, pipes and conduits of any corporation, supplying a town with water, are exempt from taxation, when such town takes water therefrom for the extinguishment of fires, without charge. But this exemption does not include therein, the capital stock of such corporation, any reservoir or grounds occupied for the same, or any property, real or personal, owned by such company or corporation, other than as herein above enumerated.

### **Planted Forest May Be Exempted for Twenty Years — Proviso.**

XI. Whenever a landholder, having, prior to March 30, 1882, planted or set apart for the growth and production of forest trees any cleared land or lands from which the primitive forest had been removed, successfully cultivates the same for three years, the trees being not less in numbers than two thousand on each acre and well distributed over the same, then, on application of the owner or occupant thereof to the assessors of the town in which such land is situated, the same shall be exempt from taxation for twenty years after said application, provided, that said applicant at the same time files with said assessors a correct plan of such land with a description of its location, and a statement of all the facts in relation to the growth and cultivation of said incipient forest; provided further, that such grove or plantation of trees is during that period kept alive and in a thriving condition.

### **Mines for Ten Years — But Not Lands and Surface Improvements.**

XII. Mines of gold, silver, or of the baser metals, when opened and in process of development, are exempt from taxation for ten years from the time of such opening. But this exemption does not affect the taxation of the lands or the surface improvements of the same at the same rate of valuation as similar lands and buildings in the vicinity.



**Repealed.**

SECTION 7. Repealed by Public Laws, 1891, Chapter 141.

**Poll Tax, Where Assessed.**

SECTION 8. The poll tax shall be assessed on each taxable person in the place where he is an inhabitant, on the first day of each April. No person shall be considered an inhabitant of a place on account of residing there as a student in a literary seminary.

**Real Estate, Where Taxed.**

SECTION 9. Taxes on real estate shall be assessed in the town where the estate lies, to the owner or person in possession thereof on the first day of each April. In cases of mortgaged real estate the mortgagor, for taxation, shall be deemed the owner, until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

**Standing Wood, Bark and Timber, May Be Taxed to Purchaser.**

SECTION 10. Whenever the owner of real estate notifies the assessors that any part of the wood, bark and timber standing thereon has been sold by contract in writing, and exhibits to them proper evidence, they shall assess such wood, bark and timber to the purchaser.

**Lien, How Enforced.**

SECTION 11. A lien is created on such wood, bark and timber, for the payment of such taxes, and may be enforced by the collector by a sale thereof when cut, as provided in Section 132.

**Landlord and Tenant to Pay Equally.**

SECTION 12. When a tenant paying rent for real estate is taxed therefor, he may retain out of his rent half of the taxes paid by him; and when a landlord is assessed for such real estate he may recover half of the taxes paid by him and his rent, in the same action against the tenant, unless there is an agreement to the contrary.

**Personal Estate Taxable Where Owner Resides.**

SECTION 13. All personal property within or without the State, except in cases enumerated in the following section, shall be assessed to the owner in the town where he is an inhabitant, on the first day of each April.

**Exceptions.**

SECTION 14. The excepted cases referred to in the preceding section are the following:

**Personal Property Used in Trade, Ship Building or Mechanic Arts.**

I. All personal property employed in trade, in the erection of buildings or vessels, or in the mechanic arts, shall be taxed in the town where so employed, on the first day of each April, provided that the owner, his servant, sub-contractor or agent, so employing it, occupies any store, shop, mill, wharf, landing place or shipyard therein, for the purpose of such employment.

**Personal Property Owned Out of the State — Exceptions — Lien in Favor of Persons Paying Tax — Lien on the Property Taxed — Remedy for Paying More Than Proportion of Tax — Owners to Furnish Assessors Where Tanneries Are Located, a Sworn Account of Hides and Leather on Hand, April 1.**

II. Personal property which, on the first day of each April is within the State, and owned by persons residing out of the State, or by persons unknown; except vessels built, in process of construction, or undergoing repairs, and hides and the leather, the product thereof, when it appears that the hides were sent into the State to be tanned, and to be carried out of the State when tanned; shall be taxed to the person having the same in possession, or to the person owning or occupying any store, shop, mill, wharf, landing, ship yard or other place therein where said property is on said day, and a lien is created on said property in behalf of such person, which he may enforce for the re-payment of all sums by him lawfully paid in discharge of the tax. A lien is also created upon the property for the payment of the tax, which may be enforced by the constable or collector to whom the tax is committed, by a sale of the property, as provided in Sections 126, 132 and 133. If any person pays more than his proportionate part of such tax, or if his own goods or property are applied to the payment and discharge of the whole tax, he may recover of the owner such owner's proper share thereof. Persons engaged in the tanning of leather in the State, shall on or before the first of each April furnish to the assessors of the town where they are carrying on said business, a full account, on oath, of all hides and leather on hand received by them from without the State, and

all hides and leather on hand from beasts slaughtered in the State, which last named hides and leather shall be taxed in the town where they were tanned.

### **Machinery and Real Estate of Corporations.**

III. Machinery employed in any branch of manufacture, goods manufactured or unmanufactured, and real estate belonging to any corporation, except when otherwise expressly provided, shall be assessed to such corporation in the town or place where they are situated or employed; and in assessing stockholders for their shares in any such corporation, their proportional part of the value of such machinery, goods and real estate, shall be deducted from the value of such shares.

### **Mules, Horses, Cattle, Sheep and Swine, Where and to Whom to Be Taxed — When Town Line Divides a Farm.**

IV. All mules, horses, neat cattle, sheep and swine shall be taxed in the town where they are kept on the first day of each April, to the owner or person who has them in possession at that time. All such animals, which are in any other town, than that in which the owner or possessor resides, for pasturing or any other temporary purpose on said first day of April, shall be taxed to such owner or possessor in the town where he resides; and all such animals, which are out of the State, or in any unincorporated place in the State on said first day of April, but owned by, or in charge and possession of any person residing in any town, shall be taxed to such owner or possessor in the town where he resides. If a town line so divides a farm that the dwelling-house is in one town, and the barn or outbuildings or any part of them is in another, such animals kept for the use of said farm shall be taxed in the town where the house is.

### **Personal Property of Minors and Wards.**

V. Personal property belonging to minors under guardianship shall be assessed to the guardian in the place where he is an inhabitant. The personal property of all other persons under guardianship shall be assessed to the guardian in the town where the ward is an inhabitant.

### **Personal Property of Any Other Person if Held in Trust.**

VI. Personal property held in trust by an executor, administrator or trustee, the income of which is to be paid to any other person, shall be

assessed to such executor, administrator or trustee, in the place where the person to whom the income is payable as aforesaid, is an inhabitant. But if the person to whom the income is payable as aforesaid resides out of the State, such personal property shall be assessed to such executor, administrator or trustee, in the place where he resides. (As amended by P. L., 1899, Chapter 175.)

### **Funds Intrusted to Corporations.**

VII. Personal property placed in the hands of any corporation as an accumulating fund for the future benefit of heirs or other persons shall be assessed to the person for whose benefit it is accumulating, if within the State, otherwise, to the person so placing it, or his executors or administrators, until a trustee is appointed to take charge of it or its income, and then to such trustee.

### **Undistributed Personal Property in Hands of Executors or Administrators.**

VIII. The personal property of deceased persons in the hands of their executors or administrators, not distributed, shall be assessed to the executors or administrators in the town where the deceased last dwelt, until they give notice to the assessors that said property has been distributed and paid to the persons entitled to receive it. If the deceased at the time of his death did not reside in the State, such property shall be assessed in the town in which such executors or administrators live.

### **Of Religious Societies.**

IX. Personal property held by religious societies shall be assessed to the treasurer thereof in the town where they usually hold their meetings.

### **Property Taxed Elsewhere.**

X. Personal property in another State or county on the first day of each April, and legally taxed there.

### **Stock of Toll Bridges, How, Where and to Whom Taxed.**

SECTION 15. The stock of toll bridges shall be taxed as personal property, to the owners thereof, in the towns where they reside, except stock owned by persons residing out of the State, which shall be taxed in the town where the bridge is located, and where such bridge is in

two towns, one-half of such stock so owned by persons residing out of the State shall be assessed and taxed in each town.

**Stock of Water or Gas Companies, How Taxed.**

SECTION 16. Stock in any local corporation, chartered for the purpose of supplying towns with water or gas, held by any person unknown, or out of the State, shall be taxed in the town where such corporation is located or transacts its ordinary business, as provided for the taxation of bank stock in Section 30.

**Powers of Tax Officers Is the Same as in Assessing Bank Stocks.**

SECTION 17. The powers of assessors, collectors and treasurers, and the liens on the stock, shall be the same as provided in Sections 30, 31, 33 and 34, and the duties therein imposed on cashiers, shall be performed by the treasurers of such corporations.

**Clerks Failing to Make Returns — Property Deemed Corporate.**

SECTION 18. When the clerk of a corporation holding property liable to be taxed, fails to comply with Section 30 of Chapter 46, whether the corporation was chartered before or since the separation of Maine from Massachusetts, such property for the purposes of taxation, shall be deemed corporate property, liable to be taxed to the corporation, although its stock has been divided into shares and distributed among any number of stockholders.

**Such Property, How Taxable — When Franchise May Be Sold on Warrant of Distress.**

SECTION 19. Such property, both real and personal, is taxable for State, county, city, town, school district, and parochial taxes, to be assessed and collected in the same manner and with the same effect as upon similar taxable property owned by individuals. If the corporation has the right to receive tolls, such right or franchise may be taken and sold on warrant of distress for payment of such taxes, as such property is taken and sold on execution.

**Blood Animals.**

SECTION 20. Blood animals, brought into the State and kept for improvement of the breed, shall not be taxed at a higher rate than stock of the same quality and kind bred in the State.

**Stock of Companies Invested, How to Be Taxed.**

SECTION 21. When an insurance or other incorporated company is required by law to invest its capital stock or any part thereof in the stock of a bank, or other corporation in the State, for the security of the public, such investments shall not be liable to taxation except to the stockholders of the company so investing as making a part of the value of their shares in the capital stock of said company.

**Stock of Insurance Companies, When Exempt from Taxation.**

SECTION 22. When the capital stock of any insurance company incorporated in the State, is taxed at its full value, the securities and pledges held by said company to the amount of said stock, are exempt from taxation; but if the pledge or security consists of real estate in a town other than that where the stockholder resides, it shall be taxed where it lies, and the stock shall be exempt to the amount for which it is assessed.

**Mortgaged Personal Property — Distress — Loan Secured by Deed Is Taxable to Grantee.**

SECTION 23. When personal property is mortgaged or pledged, it shall for purposes of taxation, be deemed the property of the party who has it in possession, and it may be distrained for the tax thereon. Money or personal property, loaned or passed into the hands or possession of another, by any person residing in the State, secured by an absolute deed of real estate, shall be taxed to the grantee, as in case of a mortgage, although the land is taxed to the grantor or other person in possession.

**Real Estate of Deceased, How Taxed.**

SECTION 24. The undivided real estate of a deceased person may be assessed to his heirs or devisees without designating any of them by name, until they give notice to the assessors of the division of the estate, and the names of the several heirs or devisees; and until such notice is given each heir or devisee shall be liable for the whole of such tax, and may recover of the other heirs or devisees their portions thereof when paid by him; and in an action for that purpose the undivided shares of such heirs or devisees in the estate, upon which such tax has been paid, may be attached on mesne process, or taken on execution issued on a judgment recovered in an action therefor. Or such

real estate may be assessed to the executor or administrator of the deceased, and such assessment shall be collected of him the same as taxes assessed against him in his private capacity, and it shall be a charge against the estate and shall be allowed by the judge of probate; but when such executor or administrator notifies the assessors that he has no funds of the estate to pay such taxes, and gives them the names of the heirs, and the proportions of their interest in the estate to the best of his knowledge, the estate shall no longer be assessed to him.

### **Personal Estate of Partners, How to Be Taxed — Exceptions.**

SECTION 25. Partners in business, whether residing in the same or different towns, may be jointly taxed, under their partnership name, in the town where their business is carried on, for all personal property enumerated in the first paragraph of Section 14, employed in such business; and if they have places of business in two or more towns they shall be taxed in each town for the portion of property employed therein; except that if any portion of such property is placed, deposited or situated in a town other than where their place of business is, under the circumstances specified in said paragraph, they shall be taxed therefor in such other town; and in such cases they shall be jointly and severally liable for such tax.

### **Lands May Be Assessed to Owners or Tenants — Part Owners May Be Taxed and Pay Separately.**

SECTION 26. All real estate, and such as is usually called real, but is made personal by statute, may be taxed to the tenant in possession, or to the owner, whether living in the State or not, in the town where it is; and when a State, county or town tax is assessed on lands owned or claimed to be owned, in common or in severalty, any person may furnish the collector or treasurer, to whom the tax is to be paid, an accurate description of his part of the land, in severalty, or his interest, in common, and pay his proportion of such tax; and thereupon his land or interest shall be free of all lien created by such tax.

### **Assessments May Be Continued to Same Person until Notice of Transfer — Tenant in Common Shall Be Considered Owner.**

SECTION 27. When assessors continue to assess real estate to the person to whom it was last assessed, such assessment is valid, although

the ownership or occupancy has changed, unless previous notice is given of such change, and of the name of the person to whom it has been transferred or surrendered; and a tenant in common, or joint tenant, may be considered sole owner for the purpose of taxation, unless he notifies the assessors what his interest is.

**Property of Manufacturing, Mining and Smelting Corporations, How and Where Taxed—Lien for Collection—Shares.**

SECTION 28. The buildings, lands, and other property of manufacturing, mining and smelting corporations, made personal by their charters, and not exempt from taxation, and all stock used in factories, shall be taxed to the corporation, or to the persons having possession of their property or stock, in the town or place where the corporations are established, or the stock is manufactured; and there shall be a lien for one year on such property and stock for payment of such tax, and it may be sold for payment thereof, as in other cases; and shares of the capital stock of such corporations shall not be taxed to their owners.

**Real Estate of Banks—Where to Be Taxed—Bank Stock Where Taxed.**

SECTION 29. All real property in the State owned by any bank incorporated in this State, or by any national bank or banking association, shall be taxed in the place where the property is situated, to said bank or banking association, for State, county and municipal taxes, according to its value, like other real estate; but the stock of such banks shall be taxed to the owners thereof where they reside, if known to be residents of the State; but taxation of shares in such banks shall not be at a greater rate than is assessed upon other moneyed capital in the hands of citizens.

**Taxation of Bank Stock Owned out of the State.**

SECTION 30. Stock of any bank or other corporation, except a manufacturing corporation, held by persons out of the State, or unknown, which has not been certified according to Section 30 of Chapter 46 of the revised statutes, in any town in the State, and is not there assessed; and the stock of any bank or such other corporation appearing by the books thereof to be held by persons residing out of the State, or whose residence is unknown to the assessors, shall be assessed in the town where such bank or other corporation is located, or transacts its ordi-



nary business; and such town has a lien on such stock and all dividends thereon, from the date of such assessment, until such tax and all costs and expenses arising in the collection thereof are paid. No assignment, sale, transfer, or attachment passes any property in such stock unless the vendee first pays such tax and cost; cashiers of banks and clerks of such other corporations shall return to the assessors of the town where such bank or other corporation is located or transacts its business, all the stock in such bank or other corporation not returned to the assessors of other towns, according to said Section 30 of Chapter 46, Revised Statutes; and such returns shall be made at the time and in the manner prescribed therein, and shall be the basis of taxation of such property.

**Cashiers are Required to Exhibit Books—To Deliver Certified Copy of Record of Dividend—If He Refuses Bank to Be Doomed—Cashier Also Liable.**

SECTION 31. The cashier or other officer of each bank or other corporation, except a manufacturing corporation, shall exhibit on demand, to the assessors of any town all the books of such bank or other corporation that contain any record of the stock of such bank or other corporation or any dividend, declared or paid thereon, and if requested, shall deliver to them a true and certified copy of so much of said record as they require. Should any cashier or other officer neglect or refuse to perform the duties required by this and the preceding section, the assessors may doom such bank or other corporation in such sum as they deem reasonable, and the assessment shall bind such bank or other corporation and the tax thereon shall not be abated, and for such neglect or refusal, such cashier or other officer forfeits five hundred dollars to be recovered in an action of debt, half to the prosecutor and half to the State.

**Shares; to Be Taxed in the Town Where Bank Is Located, When Residence of Holder Is Unknown or Is out of the State.**

SECTION 32. When returns of stock in banks and national banking associations, and other corporations, are made according to the preceding section, or Section 30 of Chapter 46, if it is found by the assessors of any town receiving such returns that the holders of such stock do not reside in such town, they shall within fifteen days return the names of such stockholders, with the amount of stock held by them to the assessors of the town where such stockholders reside, if their residence

is known and within the State; and if not, such returns shall be made to the assessors of the town where the bank is located, and shall be subject to Section 30 of this chapter.

**Collectors of Taxes Shall Give Notice — No Dividends Shall Be Paid until Tax Is Paid — Tax Charged on Offset — Stock May Be Sold — Powers of Collectors Extended.**

SECTION 33. The collector of a town, to whom has been committed a tax upon the stock of any bank or other corporation, except a manufacturing corporation, shall, within thirty days after the bills of assessment are delivered to him, cause a written notice to be delivered to the cashier or president thereof, stating the description of stock taxed, to whom assessed, if stated in the bills, and the tax thereon. No dividend shall be paid on such stock after such notice until the tax and all cost thereon are paid. The cashier may pay such tax, and payment shall constitute a charge in offset against any dividend thereon. Should such tax remain unpaid for ninety days after such notice the collector may sell such stock in the manner specified in Sections 138 and 139. For the purpose of collecting taxes on bank stock collectors may act in any town.

**Actions May Be Maintained by Treasurers of Towns and Cities.**

SECTION 34. Any town treasurer, or his successor in office, may maintain an action on the case against any bank, and recover therein the tax assessed, if unpaid, and the lawful charges upon any share thereof, if any dividend thereon has been paid after such tax was assessed; but judgment shall not be rendered in such action for a larger sum in damages than the dividend thus paid, and all such taxes and charges may be recovered in one suit, if said treasurer so elects.

**Supplementary Assessments May Be Made to Correct Mistakes.**

SECTION 35. When any assessors, after completing the assessment of a tax, discover that they have by mistake omitted any polls or estate liable to be assessed, they may, during their term of office, by a supplement to the invoice and valuation and the list of assessments, assess such polls and estate their proportion of such tax according to the principles on which the assessment was made, certifying that they were omitted by mistake. Such supplemental assessments shall be commit-

ted to the collector, with a certificate, under the hands of the assessors, stating that they were omitted by mistake, and that the powers in their previous warrant, naming the date of it, are extended thereto: and the collector has the same power and is under the same obligations to collect them as if they had been contained in the original list; and all assessments shall be valid, notwithstanding that by such supplement the whole amount exceeds the sum to be assessed by more than five per cent., or alters the proportion of tax allowed by law to be assessed on the polls.

**Treasurer of State Shall Issue Warrants for State Tax —  
Tax for Each Year Shall Be Separately Ordered.**

SECTION 36. When a State tax is ordered by the legislature the treasurer of State shall forthwith send his warrants directed to municipal officers of each town or other place, requiring them to assess upon the polls and estates of each its proportion of such State tax for the current year; and shall in like manner send like warrants for the State tax for the succeeding year, forthwith upon the expiration of one year from the time such tax is so ordered. The tax for each year shall be separately ordered and apportioned, and the amount of such proportion shall be stated in the warrants.

**What State Treasurer's Warrant Shall Require.**

SECTION 37. The treasurer, in his warrant, shall require said officers to make a fair list of their assessments, setting forth in distinct columns against each person's name how much he is assessed for polls, how much for real estate, and how much for personal estate, distinguishing any sum assessed to such person as guardian, or for any estate in his possession as executor, administrator or trustees; to insert in such list the number of acres of land assessed to each non-resident proprietor, and the value at which they have estimated them; to commit such list, when completed and signed by a majority of them, to the collector or constables of such town or other place, with their warrants in due form requiring them to collect and pay the same to the treasurer of such town or other place, at such times as the legislature, in the act of authorizing such tax, directed them to be paid; and to return a certificate of the names of such officers and the amount so committed to each, two months at least before the time at which they are required to pay in such tax.

**Rules for Assessment of Taxes—Poll Tax Not to Exceed Three Dollars—Highway Taxes.**

SECTION 38. In the assessment of all State, county, town, plantation, parish or society taxes, assessors shall govern themselves by this chapter, except in parishes and societies where different provision for assessing their taxes is made; and shall assess on the taxable polls therein such part of the whole sum to be raised as they deem expedient; but the whole poll tax assessed in one year upon a person for town, county and State purposes, except highway taxes separately assessed, shall not exceed three dollars. The same rule shall be observed in the assessment of highway taxes, and the residue of such taxes shall be assessed on the estates according to their value.

**Assessors Are Responsible for Personal Faithfulness Only.**

SECTION 39. Assessors of towns, plantations, school districts, parishes and religious societies, are not responsible for the assessment of any tax, which they are by law required to assess; but the liability shall rest solely with the corporations for whose benefit the tax was assessed, and the assessors shall be responsible only for their own personal faithfulness and integrity.

**STATE TAXATION OF RAILROAD, TELEGRAPH, TELEPHONE, EXPRESS AND FOREIGN INSURANCE COMPANIES AND SAVINGS BANKS.****Annual Returns of Railroad Companies—To State Length of Line and Assessed Value of Stations.**

SECTION 40. Every railroad company, incorporated under the laws of the State, or doing business therein, shall, annually, between the first and fifteenth days of April, return to the Secretary of State under oath of its treasurer, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders, with their places of residence and the number of shares belonging to each on said first day of April. The returns shall also contain a statement of the whole length of its line, the length of its line within the State, and the assessed value in each town of its stations and other property taxed by municipalities.

**Corporations or Persons Operating Railroads Shall Pay Annual Excise Tax—State Shall Pay Cities and Towns One Per Cent. on Stock Held Therein—Proviso.**

SECTION 41. Every corporation, person or association operating any railroad in the State, under lease or otherwise, shall pay to the treasurer of State, for the use of the State, an annual excise tax, for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in Section 4, is in place of all taxes upon such railroad, its property and stock. There shall be apportioned and paid by the State from the taxes received under this and the six following sections, to the several cities and towns in which, on the first day of April in each year, is held railroad stock of either such operating or operated roads exempted from other taxation, an amount equal to one per cent. on the value of such stock on that day, as determined by the governor and council; provided, however, that the total amount thus apportioned on account of any railroad shall not exceed the sum received by the State as tax on account of such railroad; and, provided further, that there shall not be apportioned on account of any railroad and its several parts, if any, operated by lease or otherwise, a greater part of the whole tax received from such railroad and its several parts, than the proportion which the amount of capital stock of such railroad and its several parts owned in this State, bears to the whole amount of the capital stock of said railroad and its several parts.

**Amount of Tax on Railroad, How to Be Ascertained—Proviso—Railroads Partly outside the State, Tax upon, How Ascertained.**

SECTION 42. The amount of such annual excise tax shall be ascertained as follows: the amount of the gross transportation receipts as returned to the railroad commissioners for the year ending on the thirtieth day of June preceding the levying of such tax shall be divided by the number of miles of railroad operated, to ascertain the average gross receipts per mile; when such average receipts per mile do not exceed fifteen hundred dollars, the tax shall be equal to one-half of one per cent. of the gross transportation receipts; when the average receipts per mile exceed fifteen hundred dollars, and do not exceed two thousand dollars, the tax shall be equal to three-quarters of one per cent. of the gross receipts; and so on increasing the rate of the tax one-quarter of one per cent. for each additional five hundred dollars of average gross receipts per mile or fractional part thereof, provided, that the rate

shall in no event exceed four per cent. When a railroad lies partly within and partly without the State, or is operated as a part of a line or system extending beyond the State, the tax shall be equal to the same proportion of the gross receipts in the State, as herein provided, and its amount shall be determined as follows: the gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the State, shall be divided by the total number of miles operated to obtain the average gross receipts per mile, and the gross receipts in the State shall be taken to be the average gross receipts per mile, multiplied by the number of miles operated within the State.

#### **Tax, How Fixed — Notice to Companies.**

SECTION 43. The governor and council, on or before the first day of each April, shall determine the amount of each tax, and report the same to the treasurer of State, who shall forthwith give notice thereof to the corporation, person or association, upon which the tax is levied.

(NOTE. By Public Laws of 1891, Chapter 103, Section 6, the State assessors are required to do and perform all the acts and duties heretofore performed by the governor and council relating to taxation of railroad corporations, and all corporations, company or persons doing telegraph, telephone or express business within the State, and assess all taxes upon corporate franchises.)

#### **Tax Payable in July and October — Treasurer Shall Enforce Collection — Tax to Be a Lien and Take Precedence.**

SECTION 44. Said tax shall be payable, one-half on the first day of July next after the levy is made, and the other half on the first day of October following. If any party fails to pay the tax, as hereinbefore required, the treasurer of State may proceed to collect the same, with interest, at the rate of ten per cent. a year, by action of debt, in the name of the State. Said tax shall be a lien on the railroad operated, and take precedence of all other liens and incumbrances.

#### **Aggrieved Parties May Apply for Abatement to Governor and Council.**

SECTION 45. Any corporation, person or association aggrieved by the action of the governor and council in determining the tax, through error or mistake in calculating the same, may apply for abutement of

any such excessive tax within the year for which such tax is assessed, and if, upon rehearing and re-examination, the tax appears to be excessive through such error or mistake, the governor and council may thereupon abate such excess, and the amount so abated shall be deducted from any tax due and unpaid, upon the railroad upon which the excessive tax was assessed; or, if there is no such unpaid tax, the governor shall draw his warrant for the abatement, to be paid from any money in the treasury not otherwise appropriated.

**Further Returns May Be Required by Railroad Commissioners — Railroad Commissioners Shall Have Access to Books of Railroad Companies — Penalty for Refusing to Make Returns, or for Making False Ones.**

SECTION 46. If the returns required by law, in relation to railroads, are found insufficient to furnish the basis upon which the tax is to be levied, the railroad commissioners shall require such additional facts in the returns as may be found necessary; and, until such returns are so required, or, in default of such returns when required, the governor and council shall act upon the best information that they may obtain. The railroad commissioners shall have access to the books of railroad companies, to ascertain if the required returns are correctly made; and any railroad corporation, association, or person operating any railroad in the State, which refuses or neglects to make the returns required by law, or to exhibit to the railroad commissioners its books for the purposes aforesaid, or makes returns which the president, clerk, treasurer, or other person certifying to such returns knows to be false, forfeits not less than one thousand, nor more than ten thousand dollars, to be recovered by indictment, or by an action of debt in any county into which the railroad operated extends.

**State Taxation of Horse Railroad Companies.**

SECTION 47. Street railroad corporations and associations are subject to the six preceding sections, and to Section 4, except that the tax shall be ascertained as follows: when the gross average receipts per mile do not exceed one thousand dollars, the tax shall be equal to threewentieths of one per cent. on the gross transportation receipts; and for each thousand dollars additional average gross receipts per mile, or fractional part thereof, the rate shall be increased threewentieths of one per cent.

### **Telephone and Telegraph Companies to Make Annual Returns to Secretary of State.**

SECTION 48. Every corporation, association, or person operating in whole or in part a telephone or telegraph line for toll or other compensation, within the State, shall annually, between the first and fifteenth days of April, return to the secretary of State, under oath of its treasurer, if a corporation, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders resident within the State, with their places of residence and the number of shares belonging to each, on said first day of April; if a person or association, the owner or owners, or one of them, shall annually make a return under oath to the secretary of State, between the first and fifteenth days of April, of the names and residences of the owner or owners, and the relative interest each owner has in any such association on the first day of April. The returns shall also contain a statement of the assessed value in each town of the real estate of such corporation, association or person used solely for the conduct of a telephone or telegraph business, and taxed by any municipality, and the gross receipts from business done wholly within the State for operating such business during the preceding year ending April 1.

### **State Taxation of Telephone and Telegraph Companies.**

SECTION 49. Every corporation, association or person, operating in whole or in part a telephone or telegraph line within the State for tolls or other compensation, shall pay to the treasurer of the State for the use of the State an annual excise tax for the privilege of conducting such business within the State, which tax, with the tax provided for in Section 7 of this Act, is in place of all taxes upon the property of such corporation, association, or person employed in such business, and of all taxes upon the shares of the capital stock of any such corporation.

There shall be apportioned and paid by the State from the taxes collected under this section to the several cities and towns in which, on the first day of April in each year, is held stock of any such corporation, or in which resides the owner or owners of an interest in any telegraph or telephone lines operated by any association or person not a corporation, and taxed under this Act, an amount equal to one per cent. on the value of such stock on that day, as determined by the State assessors, if a corporation; and if not a corporation, such proportion of the amount of such excise tax paid into the State treasury by the association, person or persons operating such line as such interest owned by a



resident in any such municipality bears to the whole ownership; provided, however, that the total thus apportioned on account of such stock, if a corporation, shall not exceed the sum received by the State as a tax on account of such corporation; and provided further, that there shall not be apportioned, on account of any such corporation, a greater part of the whole tax received by the State from such corporation than the proportion which the amount of capital stock of such corporation owned in this State bears to the whole amount of the capital stock of such corporation.

### **Tax, How Ascertained.**

SECTION 50. The amount of such annual excise tax shall be ascertained as follows: When the gross receipts from business done wholly within this State, for the year for which the tax is assessed on such corporation, association or person, in the operation of such business, exceed one thousand dollars, and do not exceed five thousand dollars, the tax shall be one and one-fourth per cent. of the gross receipts; when such gross receipts exceed five thousand dollars and do not exceed ten thousand dollars the tax shall be one and one-half per cent. of such gross receipts; and when such gross receipts exceed ten thousand dollars and do not exceed twenty-five thousand dollars the tax shall be one and three-fourths per cent. of the gross receipts; when such gross receipts exceed twenty-five thousand dollars and do not exceed fifty thousand dollars the tax shall be two per cent. of such gross receipts, and so on, increasing the rate of the tax one-quarter of one per cent. for each additional twenty-five thousand dollars, or fractional part thereof, of such gross receipts, provided that the rate shall in no event exceed four per cent. of such gross receipts.

### **Amount of Tax to Be Determined by State Assessors.**

SECTION 51. The State board of assessors on or before the first day of May, annually shall determine the amount of such tax and report the same to the treasurer of the State who shall forthwith give notice thereof to the corporation, association or person upon which the tax is levied.

### **Tax, When to Be Paid.**

SECTION 52. Said tax shall be paid in to the treasurer on or before the first day of September annually. If any party fails to pay the tax

as hereinbefore required, the treasurer of the State may proceed to collect for the same, with interest at the rate of ten per cent. a year, by action of debt in the name of the State. Said tax shall be a lien on the property of such corporation, and on its franchise, and upon the property used in operating a telephone or telegraph business by any such association or person and takes precedence over all other liens.

### **Books of Corporations to Be Open to Assessors — Penalty for False Returns.**

SECTION 53. The State board of assessors, or their duly authorized agent, shall have access to the books of any such corporation, association or person, to ascertain if the required returns are correctly made; and any corporation, association or person operating any telegraph or telephone line in this State, and refusing or neglecting to make the returns required by law, or to exhibit to the State assessors, or their duly authorized agent therefor, its or his books for the purpose aforesaid or making returns which the president, clerk treasurer or other person certifying such returns know to be false, shall forfeit not less than one thousand or more than ten thousand dollars, to be recovered by indictment or by action of debt in any county into which the said telegraph or telephone lines extend.

### **Tax Shall Be in Lieu of All Taxes.**

SECTION 54. The excise tax collected under this Act shall be in lieu of all taxes upon any corporation therein designated, upon its shares of capital stock and its property used in the conduct of its telephone or telegraph business, including the poles, wires, insulators, office furniture, batteries, instruments, telegraphic and telephonic apparatus, telephones and transmitters used under lease or license or owned by such corporation, association or person; provided, however, that the real estate and also personal property not hereinabove exempted, owned by such corporation association or person, shall be taxed in the municipality in which the same is situated; but the amount of the tax assessed upon such real estate if owned and actually used by such corporation, association, or person in the transaction of their business, shall be deducted by the State board of assessors from the tax laid under this Act. The assessment of taxes on such real estate shall be legal, whether assessed as resident or non-resident property.

**Companies, Persons Doing Express Business, Shall Apply Annually for a License, and Shall Pay Tax — Proviso.**

SECTION 55. Every corporation, company or person doing express business on any railroad, steamboat or vessel in the State, shall, annually, before the first day of May, apply to the treasurer of State for a license authorizing the carrying on of said business; and every such corporation, company or person shall annually pay to the treasurer of State two per cent. of the gross receipts of said business for the year ending on the first day of April preceding. Said two per cent. shall be on all of said business done in the State, including a pro rata part on all express business coming from other states or countries into this State, and on all going from this State to other states or countries, provided however, that nothing herein applies to goods or merchandise in transit through the State.

**Shall Make Annual Returns to the State Assessors — Assessors Shall Assess Tax.**

SECTION 56. Every such corporation, company, or person, shall, by its properly authorized agent or officer, annually, on or before the fifteenth day of May, make a return under oath to the State assessors, stating the amount of said receipts for all express matters carried, within the State as specified in the preceding section; whereupon the State assessors shall on or before the fifteenth day of June following, assess the tax therein provided, and forthwith certify the same to the treasurer of State, who shall thereupon notify said corporations, companies or persons, and said taxes shall be paid into the State treasury on or before the first day of May following.

**State Tax Is in Place of Local Taxation.**

SECTION 57. The tax assessed upon express corporations, companies and persons as aforesaid, is in place of all local taxation, except that real estate owned by such corporations, companies or persons shall be taxed in the municipality where the same is situated, as non-resident real estate, but the amount of taxes assessed upon such portion of real estate owned and actually used by them in the transaction of their business shall be deducted by the State assessors from the tax herein before provided.

**Penalty for Neglect to Make Return.**

SECTION 58. Any corporation, company or person neglecting to make returns according to Section 56, forfeits twenty-five dollars for

every day's neglect, to be recovered by action of debt in the name of the State.

### **Foreign Insurance Companies Shall Pay Tax on Premiums.**

SECTION 59. Every insurance company or association which does business or collects premiums or assessments in the State, not incorporated or associated under its laws, shall, as hereinafter provided, annually pay a tax upon all premiums received, whether in cash or in notes absolutely payable, on contracts made in the State for insurance of life, property or interests therein, at the rate of one and one-half per cent. a year.

### **Amount of Tax How Determined — How Computed.**

SECTION 60. In determining the amount of tax due under the preceding section, there shall be deducted by each company from the full amount of premiums received, the amount of all return premiums on policies canceled, the amount of all premiums paid to companies authorized to transact business in this State for reinsurance of risks in Maine, and the tax shall be computed on the amount thus actually received by said companies or their agents as aforesaid.

### **Such Companies Shall Make Return — Tax, How to Be Assessed — Companies Shall Be Notified of Assessments and Be Suspended for Non-Payment.**

SECTION 61. Every company or association which by the two preceding sections is required to pay a tax, shall, on or before the thirty-first day of each January, make a return under oath to the insurance commissioners, stating the amount of all premiums received by said company, either in cash or notes absolutely payable, during the year ending on the thirty-first day of December previous, the amount of return premiums on policies canceled during said year, the amount of all premiums paid to or received from other companies during the year for insurance or reinsurance of risks in this State; the names of the companies with which such insurance or reinsurance was effected; the amounts of the policies and the premiums on the same. Said tax shall be assessed by the treasurer of State on or before the first day of April, upon the certificate of the insurance commissioner, to be seasonably furnished therefor, the same to be paid on or before the first day of May following. The treasurer shall notify the several companies of

the assessment, and unless the same is paid as aforesaid, the commissioner shall suspend the right of the company to do any further business in the State until the tax is paid.

**Neglecting to Make Return, How to Be Assessed — Failing to Pay, Forbidden to Do Business in the State — Penalty.**

SECTION 62. If any insurance company or association refuses or neglects to make the return required by the preceding section, the treasurer of State shall make such assessment on such company or association as he deems just, and unless the same is paid on demand, such company or association shall do no more business in the State, and the insurance commissioner shall give notice accordingly. Whoever, after such notice, does business in the State for such company or association, is liable to the penalty provided in Section 73 of Chapter 49.

**Ratio of Tax on Certain Foreign Insurance Companies — Return and Assessment of Tax — Right to Do Business Suspended in Certain Cases.**

SECTION 63. Any insurance company incorporated by a state or country whose laws impose upon insurance companies chartered by this State any greater tax than is herein provided, shall pay the same tax upon business done by it in this State, in place of the tax above provided; and the insurance commissioner may require the return upon which such tax may be assessed to be made to him, and the treasurer of State may assess such tax; and if it is not paid as provided in Section 61 the insurance commissioner shall suspend the right of said company to do business in this State.

**Repealed.**

SECTIONS 64, 65. Relating to taxation of savings banks, repealed by Public Laws of 1893, Chapter 258.

**Deposits Are Exempt from Municipal Taxation, but Not Land Held by Bank.**

SECTION 66. All deposits in savings banks in the State are exempt from municipal taxation to the bank or to the depositor, but real estate owned by the bank, not held as collateral security, may be taxed by the town in which the same is located.

**Returns of Bank Stock Pledged as Collateral Shall Be Made Assessors of Municipalities Where Owners Reside.**

SECTION 67. Treasurers of savings banks, on the first day of each April shall return to the assessors of towns, where persons reside who own bank stock which is pledged or transferred to said bank as collateral security for loans, the names of persons pledging or transferring such stock and the amount of the same; and stock so pledged or transferred by persons residing out of the State shall be returned by such treasurers in the same manner to the assessors of the town in which the bank whose stock is so pledged or transferred is located. For the purposes of taxation, bank stock so pledged or transferred shall be deemed the property of the persons so pledging or transferring it.

**Proceedings in Case of Failure to Make Returns and Pay Tax—State Taxes May Be Collected of Any Corporation by Action of Debt or Case.**

SECTION 68. If any corporation, company or person fails to make the returns required by Sections 49, 53 and 56, the governor and council shall make an assessment of State tax upon such corporation, company or person on such valuation, or on such gross receipts thereof as the case may be, as they think just, with such evidence as they may obtain, and such assessment shall be final. If any corporation, company or person fails to pay the taxes required or imposed by Sections 48, 52, 55 and 64, the treasurer of State shall forthwith commence an action of debt, in the name of the State, for the recovery of the same with interest. In addition to other remedies for the collection of State taxes upon any corporation, such taxes with interest may be recovered by an action of debt, or an action on the case, in the name of the State.

**TAXES ON LANDS IN PLACES NOT INCORPORATED.**

**Lands in Places Not Incorporated May Be Taxed by the State—Lists Shall Be Made by State Assessors.**

SECTION 69. Lands not exempt, and not liable to be assessed in any town, may be taxed by the legislature for a just proportion of all State and county taxes as herein provided for ordering the State and county taxes upon property liable to be assessed in towns. The State assessors shall make lists thereof, with as many divisions as will secure equitable

taxation, conforming as near as convenient to known divisions and separate ownership and report the same to each successive legislature.

**Such Lands Are Subject to County Taxes—Treasurer of County to Certify Lists of Such Taxes to Treasurer of State, Who Shall Give Credit for the Amount Thereof.**

SECTION 70. Such lands may be assessed by the county commissioners according to the last State valuation for a due proportion of county taxes. Lists of such taxes shall immediately be certified and transmitted by the county treasurer to the treasurer of State. In the list, each such township and tract shall be sufficiently described, with the date and amount of assessment on each. The treasurer of State shall, in his books, credit the county treasurer for the amount of each such assessment; and when paid to him, shall certify to the county treasurer the amount of tax and interest so paid, on the first Monday of each January.

**Lists of Assessments Shall Be Certified and Advertised Annually -- Such Lands Are Held for the Payment of Taxes.**

SECTION 71. When the legislature assesses such State tax, the treasurer of State shall, within three months thereafter, cause the lists of such assessments, with the lists of any county tax so certified to him, both for the current year, to be advertised for three weeks successively in the State paper, and in some newspaper, if any, printed in the county in which the land lies, and shall cause like advertisement of the lists of such State and county taxes for the following year to be made within three months after one year from such assessment. Said lands are held to the State for payment of such State and county taxes, with interest thereon at the rate of twenty per cent., to commence upon the taxes for the year in which such assessment is made at the expiration of one year and upon the taxes for the following year upon the expiration of two years from date of such assessment.

**Lands Shall Be Forfeited in One Year if Taxes Are Not Paid.**

SECTION 72. Owners of the lands so assessed and advertised may redeem them by paying to the treasurer of State the taxes with interest thereon, within one year from the time when such interest commences.

Each owner may pay for his interest in any tract, whether in common or not, and shall receive a certificate from the treasurer of State, discharging the tax upon the number of acres, or interest, upon which such payment is made. Each part or interest of every such township or tract, upon which the State or county taxes so advertised are not paid with interest within the time limited in this section for such redemption shall be wholly forfeited to the State, and vest therein free of any claims by any former owner.

**Treasurer of State Shall Sell Forfeited Lands at Auction in September Annually — Notice Shall Be Published in Some County Paper.**

SECTION 73. Lands thus forfeited shall annually, in September, be sold by the treasurer of State at public auction, to the highest bidder, but never at a price less than the full amount due thereon for such unpaid State and county taxes, interest, and cost of advertising. Notice of the sale shall be given by publishing a list of the lands to be sold, with the amount of such unpaid taxes, interest, and costs on each parcel, and the time and place of sale, in the State paper, and in some newspaper, if any, printed in the county in which the lands lie, three weeks successively, within three months before the time of sale.

**Surplus Shall Be Paid to Owners.**

SECTION 74. If any such tract is sold for more than the amount due the surplus shall be held by the State to be paid to the owner, whose right has been so forfeited, upon proof of ownership produced to the governor and council.

**Owner May Pay Tax before Sale, or He May Redeem from the Purchaser within One Year.**

SECTION 75. Any owner may redeem his interest in such lands by paying to the treasurer of State his part of the sums due at any time before sale; or after sale, by paying or tendering to the purchaser, within a year, his proportion of what the purchaser paid therefor at the sale, with interest at the rate of twenty per cent. a year from the time of sale, and one dollar for a release; and the purchaser, on reasonable demand, shall execute such release; and if he refuses or neglects, a bill in equity may be maintained to compel him, with costs and any damages occasioned by such refusal or neglect. Or such owner may redeem his interest by paying as aforesaid to the treasurer of State,



who, on payment of fifty cents, shall give a certificate thereof, which certificate, recorded in the registry of deeds in the county where the lands lie, shall be a release of such interest, and the title thereto shall revert and be held as if no such sale had been made. The governor and council may draw their warrant on the treasurer for any money so paid to him, in favor of the purchaser for whom it was paid, or his legal representatives.

**Copy of Record of Treasurer's Doings Is Made Evidence — Costs Apportioned — County Taxes Shall Be Paid over to County Treasurer.**

SECTION 76. The printer's bills for advertising such lands shall be divided in each case by the number of townships and tracts advertised, and each shall be charged with its proportion thereof. All amounts of county taxes and interest so received by the treasurer of State, shall be credited by him to the counties to which they belong, and paid to the treasurers thereof.

The treasurer of State shall record his doings in every such sale ; and a certified copy of such record shall be *prima facie* evidence, in any court, of the facts therein set forth. He shall give a deed to the purchaser conveying all the interest of the State in the land sold.

**Owner May Pay Taxes to County Treasurer.**

SECTION 77. Any owner of lands so assessed by the county commissioners for county taxes, may redeem them by paying to the county treasurer the amount due thereon for such taxes, interest and charges, and depositing with the treasurer of State the county treasurer's certificate of such payment, at any time before the sale.

**Assessments, on Lands for Opening Roads in Unincorporated Places — Lien Created — When Assessment Appears Oppressive, an Equitable Amount May Be Assessed on County — Appeal to Supreme Judicial Court — Proceedings — Agent, to Be Appointed to Superintend Building of Roads.**

SECTION 78. When a road is laid over lands under Section 41, of Chapter 18, the county commissioners shall at their first regular session thereafter assess thereon and on adjoining townships benefited thereby, such an amount as they judge necessary for making, opening and paying expenses attending it; and such assessment shall create a lien thereon for the payment thereof; and they may make as many divi-

sions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, and may assess upon each a sum proportional to the value thereof and the benefits likely to result to the same by the establishment of the road; when such assessment would be unreasonably burdensome to such owners, they shall assess an equitable sum on the county and the balance only on such land. Any person aggrieved by an assessment may appeal to the Supreme Judicial Court at the term thereof first held after such assessment; and the presiding judge at that term shall, on hearing the case, determine what part of said assessment shall be paid by the owners of the tract or township, and what part, if any, by the county, and there shall be no appeal from such decision. They shall, at the same time, fix the time for making and opening such road, not exceeding two years from the date of the assessment, and appoint an agent or agents, not members of their board, to superintend the same, who shall give bond to the treasurer of the county, with sureties approved by them, to expend the money faithfully, and to render account thereof on demand; and they shall publish a list of the townships and tracts of land so assessed, with the sum assessed on each, and the time in which the road is to be made and opened, in the State paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last publication to be within three months from the date of the assessment.

#### **Owners May Discharge Their Assessments by Building Roads.**

SECTION 79. If the owners make and open such road to the acceptance of the commissioners, after an actual examination by one or more of their board, within said time, the assessment shall thereby be discharged; otherwise it shall be enforced as hereinafter provided, and the agents shall proceed immediately to make and open it.

#### **Commissioners Annually to Inspect County Roads in Unincorporated Places — to Make Estimate of Repairs — Divisions and Assessments — To Cause Expenditures within One Year — When Burdensome to Owners Equitable Sum to Be Assessed on County — An Agent to Be Appointed to Superintend the Repair of Roads — Lists of Townships and Lands Assessed to Be Published.**

SECTION 80. Said county commissioners, in September, annually, by one or more of their board, shall make an inspection of all county

roads and other roads originally located as town roads in the unincorporated townships and tracts of land in their counties, and shall thereupon make an estimate of the amount needed to put them in repair, so as to be safe and convenient for public travel, and assess such amount thereon; and they shall make as many divisions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, and shall assess upon each a sum proportionate to the value thereof; and cause so much thereof as they deem necessary for the purpose aforesaid, to be expended on said roads within one year thereafter, which assessment shall create a lien thereon for the payment thereof; when such assessment would be unreasonably burdensome to such owners, they shall assess an equitable sum on the county and the balance only on such lands. They shall make such assessment by the first day of each January, and at the same time appoint an agent or agents, not members of their board, to superintend the expenditure thereof, who shall give bonds as provided in Section 78; and they shall publish a list of the townships and tracts of land so assessed, with the sums so assessed on each, and the roads on which it is to be expended, in the State paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last publication to be within three months from the date of the assessment.

#### **Land Owners May Discharge Their Assessment by Repairing Road.**

SECTION 81. If by the fifteenth of June following, the owners of such lands repair such roads to the acceptance of the commissioners, after an actual examination by one or more of their board, the assessment shall be thereby discharged; otherwise it shall be enforced as hereinafter provided, and the agents shall proceed immediately to repair such roads.

#### **Proceedings if Owner Fails to Discharge His Assessments.**

SECTION 82. If any owner fails to pay the sum so assessed on his land, for the expenses of making and opening such new roads, within two months from the time fixed therefor as provided in Section 79, or fails within two months after the fifteenth day of each June, to pay his assessments for repairing roads, as provided in the two preceding sections, the county treasurer shall proceed to sell the lands so assessed, by advertising the lists of unpaid taxes, with the date of assessment, and the time and place of sale, in the State paper, and in some paper, if any,

printed in the county where the lands lie, three weeks successively, the last publication to be at least thirty days before the time of sale. No bid shall be received at such sales for less than the amount due for the tax, costs and interest at twenty per cent. a year from the time prescribed for the payment of said tax; and the treasurer shall sell so much of said land as is necessary to pay the unpaid tax, costs and interest as aforesaid, and give a deed thereof to the purchaser, if any; and if no one becomes a purchaser at such sale, it shall be forfeited to the county; and such owner or part owner or tenant in common, may redeem his interest therein at any time within two years from the sale or forfeiture, by paying to the purchaser or the county the sum for which it was sold or forfeited, with interest at twenty per cent. a year, and any sum subsequently paid for State and county taxes thereon. Any owner of lands so sold shall receive his share in any overplus of the proceeds of such sales, on exhibiting to the treasurer satisfactory evidence of his title. In addition to the method now provided in this section for the collection of highway taxes assessed for the purposes named therein, the county commissioners of any county may, in writing, at any time subsequent to that when the lands so assessed might be sold for non-payment of the taxes assessed thereon, direct the treasurer of such county to commence an action of debt in the name of the inhabitants of said county, against the party liable to pay such taxes. But no such defendant shall be liable for any costs of suit in such action unless it appears by the declaration and proof, that payment of said tax had been duly demanded by said treasurer before the suit was commenced.

**Prima Facie Proof of Title by Purchaser at Such Sale —  
Lien on Land Sold for Taxes, Costs and Interest.**

SECTION 83. In any trial at law or in equity involving the validity of any sale or forfeiture of such lands, as provided in the preceding section, it shall be *prima facie* proof of title for the party claiming under it, to produce in evidence the county treasurer's deed, duly executed and recorded, the assessments signed by the county commissioners and certified by them or their clerk to the county treasurer, and to prove that the county treasurer complied with the requirements of law in advertising and selling. But the purchaser or the county shall have a lien on the land sold or forfeited for the taxes, costs and interest, and any subsequent taxes legally assessed thereon and paid by either, or those claiming under them; and such sums shall be paid or tendered,

before any person shall commence, maintain or defend any suit at law or in equity, involving the title to such lands under such sale or forfeiture, notwithstanding any irregularities or omissions in such sale or forfeiture.

**County Commissioners May Repair County Roads and Bridges in Unincorporated Places in Cases of Sudden Injury — Agent to Give Bond — Assessment for Repairs, How Made — Assessments to Be Itemized.**

SECTION 84. County commissioners, in case of sudden injury to county roads and bridges in unincorporated townships and tracts of land in their counties, may cause them to be repaired forthwith, or as soon as they deem necessary, and may appoint an agent or agents not members of their own board, to superintend the expenditure therefor, who shall give bond, as required in Section 78, if required, the whole expense whereof shall be added to their next assessment on said lands for repairs, authorized by Section 80, which assessment shall create a lien upon said lands for the whole amount thereof as effectually as is now provided in relation to repairs on such county roads. That portion of said assessment which is for repairs of sudden injuries as aforesaid shall be set down, in the assessment, in distinct items, in a separate column, and shall not be discharged, under Section 81, but shall be enforced, as is provided in Section 82.

**Purchasers Acquire State's Title only, and Have no Claim on the State.**

SECTION 85. Purchasers of land sold for non-payment of State and county taxes, and assessments for opening, making and repairing roads, have no claim against the State or county for any defect in the title under such sale, notwithstanding any irregularities in the proceedings or failure to comply with the law under which the sales were made. Deeds given pursuant to sales made for non-payment of State and county taxes vest in the grantee the title of the State, or of the county, to the lands sold, subject to the conditions of sale, and no more.

**Part Owner, May Redeem His Share.**

SECTION 86. Any person having legal interest in a tract so advertised, sold or forfeited, may redeem his interest by paying within the times prescribed, the amount so required to discharge the claim thereon.

The rate of interest upon unpaid State and county taxes, and taxes assessed by county commissioners for opening, making, and repairing roads, shall be twenty per cent. commencing at the expiration of one year from the date of the assessments, except when otherwise provided.

#### ASSESSMENT OF TAXES IN INCORPORATED PLACES.

##### **Treasurer of State, to Send Warrants to Sheriffs for Assessment of State Tax on Towns.**

SECTION 87. When a State tax is imposed and required to be assessed by the proper officers of towns, the treasurer of State shall send such warrants, as he is, from time to time, ordered to issue for the assessment thereof, to the sheriffs, who shall transmit them to the assessors of the towns in their counties, according to the directions thereof.

##### **County Commissioners, to Make Annual Estimates for County Taxes.**

SECTION 88. In order to assess a county tax, county commissioners, at their regular session next before the first day of each January in which the legislature meets, shall prepare estimates of the sums necessary to defray the expenses which have accrued or may probably accrue for one year from said day, including the building and repairing of jails, court houses, and appurtenances, with the debts owed by their counties, and like estimates for the succeeding year, and the county tax for both said years shall be granted by the legislature separately at the same session.

##### **Estimates to be Recorded and Transmitted to Secretary of State.**

SECTION 89. Said estimates shall be recorded by their clerk in a book; and a copy thereof shall be signed by the chairman of the county commissioners, and attested by their clerk, who shall transmit it to the office of the secretary of State, on or before the first day of each January in which the legislature meets, to be by him laid before the legislature.

##### **County Commissioners, to Apportion Sums to Be Assessed, and to Issue Warrants to Assessors.**

SECTION 90. When a county tax is authorized, the county commissioners shall in March, in the year for which such tax is granted, apportion it upon the towns and other places according to the last State

valuation; they may add such sum above the sum so authorized, not exceeding two per cent. of said sum, as a fractional division renders convenient, and certify that fact in the record of said apportionment, and issue their warrant to the assessors requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection.

### **Not Legal Unless Raised at Legal Meeting.**

SECTION 91. No assessment of a tax by a town or parish is legal, unless the sum assessed is raised by vote of the voters, at a meeting legally called and notified.

### **Assessors to Give Notice to Bring in Lists of Taxable Property.**

SECTION 92. Before making an assessment, the assessors shall give seasonable notice in writing to the inhabitants, by posting notifications in some public place in the town, or shall notify them, in such other way as the town at its annual meeting directs, to make and bring in to them true and perfect lists of their polls and all their estates real and personal, not by law exempt from taxation, of which they were possessed on the first day of April of the same year.

### **If No Lists Are Brought in, No Claim for Abatement.**

SECTION 93. If any person after such notice does not bring in such list, the assessors shall ascertain otherwise as nearly as may be, the nature, amount and value of the estate, real and personal, for which in their judgment he is liable to be taxed, and he is thereby barred of his right to make application to the assessors or the county commissioners for any abatement of his taxes, unless he offers such list with his application and satisfies them that he was unable to offer it at the time appointed.

### **Persons May Be Required to Swear to Lists — Refusal Bars Appeal.**

SECTION 94. The assessors or either of them may require the person presenting such list to make oath to its truth, which oath either of them may administer, and either of them may require him to answer all proper inquiries in writing as to the nature, situation and value of his property liable to be taxed in the State, and a refusal or neglect to answer such inquiries and subscribe the same, bars an appeal to the

county commissioners, but such lists and answers shall not be conclusive upon the assessors.

### **Abatements May Be Made within Two Years.**

SECTION 95. The assessors for the time being, on written application, stating the grounds therefor, within two years from the assessment, may make such reasonable abatement as they think proper. They shall keep in suitable book form, a record of such abatements, with the reasons for each, and report the same to the town at its annual meeting, and to the mayor and aldermen of cities, by the first Monday in each March.

### **Appeal to County Commissioners — Proceedings Thereon.**

SECTION 96. If they refuse to make the abatement asked for, the applicant may apply to the county commissioners at their next meeting, and if they think that he is overrated, he shall be relieved by them, and be reimbursed out of the town treasury the amount of their abatement, with incidental charges. The commissioners may require the assessors or town clerk to produce the valuation, by which the assessment was made, or a copy of it. If the applicant fails, the commissioners shall allow the costs to the town, taxed as in a suit in the Supreme Judicial Court, and issue their warrant of distress for collection thereof against him.

### **Assessments, How Made — Lists, to Whom Committed.**

SECTION 97. The assessors shall assess upon the polls and estates in their town all town taxes and their due proportion of any State or county tax, according to the rules in the latest Act for raising a State tax, and in this chapter; make perfect lists thereof under their hands; and commit the same to the constable or collector of their town, if any, otherwise to the sheriff of the county or his deputy, with a warrant under their hands, in the form hereinafter prescribed.

### **State and County Taxes to Be Added.**

SECTION 98. They may add their proportion of the State and county tax to any of their other taxes, and make one warrant and their certificates accordingly.

### **Overlay Not to Exceed Five Per Cent.**

SECTION 99. They may assess on the polls and estates such sum above the sum committed to them to assess, not exceeding five per



cent. thereof, as a fractional division renders convenient, and certify that fact to their town treasurer.

**Record of Assessment and Invoice to Be Deposited in Assessors' Office.**

SECTION 100. They shall make a record of their assessment and of the invoice and valuation from which it was made; and before the taxes are committed to the officer for collection they shall deposit it, or a copy of it, in the assessors' office, if any, otherwise with the town clerk, there to remain; and any place where the assessors usually meet to transact business and keep their papers or books shall be considered their office.

**Certificate to Be Sent to County Treasurer and to Treasurer of State, Who Shall Issue Warrants.**

SECTION 101. When they have assessed any county tax and committed it to the officer for collection, they shall return to the county treasurer a certificate thereof, with the name of such officer. When they have so assessed and committed a State tax, they shall return a like certificate to the treasurer of State; and if this is not done, and any part of such tax remains unpaid for sixty days after the time fixed for its payment, the treasurer of State shall issue his warrant to the sheriff or his deputy to collect the sum unpaid of the inhabitants of the town or place.

**Selectmen to Be Assessors in Certain Events—Per Diem, One Dollar and Fifty Cents.**

SECTION 102. If any town does not choose assessors, or if so many of them refuse to accept, that there are not such a number as the town voted to have, the selectmen shall be the assessors, and each of them shall be sworn as an assessor; and each selectman and assessor shall be paid for his services one dollar and fifty cents for every day necessarily employed in the service of the town.

**Penalty for Neglect to Choose.**

SECTION 103. Any town neglecting to choose selectmen or assessors forfeits to the State not exceeding three hundred, nor less than one hundred dollars, as the Supreme Judicial Court orders.

**When No Assessors, County Commissioners May Appoint—  
Proceedings Thereon.**

SECTION 104. In such case, and when the selectmen and assessors chosen by a town do not accept the trust, the county commissioners may appoint three or more suitable persons in the county, to be assessors of taxes, and such assessors, being duly sworn, shall assess upon the polls and estates in the town their due proportion of State and county taxes and said penalty, and not exceeding one dollar and fifty cents a day each, for their own reasonable charges for time and expense in said service; and shall issue a warrant under their hands for collecting the same, and transmit a certificate thereof to the treasurer of State, with the name of the person to whom it is committed; and the assessors shall be paid their charges as allowed by said commissioners out of the State treasury.

**Such Assessors to Obey Warrants.**

SECTION 105. All assessors, chosen or appointed as above provided, shall observe all warrants received by them while in office from the treasurer of State, or the county commissioners of their county.

**Penalty for Neglect to Make Assessments of State Tax.**

SECTION 106. If assessors of a town refuse or neglect to assess any State tax apportioned on it, and required by the State treasurer's warrant to be assessed by them, they forfeit to the State the full sum mentioned in such warrant; and such treasurer shall issue his warrant to the sheriff of the county to levy said sum by distress and sale of their real and personal estate.

**Penalty for Neglect to Assess County Tax.**

SECTION 107. If such assessors neglect to assess the county tax required in the warrant of the county commissioners to be assessed by them, they forfeit that sum to the county; and it shall be levied by sale of their real and personal estate, by virtue of a warrant issued by the county treasurer to the sheriff of the county for that purpose.

**Assessors May Be Arrested—Other Assessors May Be Appointed.**

SECTION 108. If the sheriff cannot find property of said assessors to satisfy the sum due on either of said warrants, he may arrest and imprison them, until they pay the same; and the county commissioners

shall forthwith appoint other proper persons to be assessors of such State and county taxes, who shall be sworn, and perform the same duties, and be liable to the same penalties as the former assessors.

**Towns Neglecting for Five Months to Assess — Treasurer to Issue Warrant to Sheriff to Collect.**

SECTION 109. If the inhabitants of a town, of which a State tax is required, neglect for five months after having received the State treasurer's warrant for assessing it, to choose assessors to assess it, and cause the assessment thereof to be certified to such treasurer for the time being, he shall issue his warrant, under his hand, to the sheriff of the same county, who shall proceed to levy such sums on the real and personal property of any inhabitants of such town, observing the regulations provided for satisfying warrants against deficient collectors, as hereinafter prescribed. But if the assessors thereof, within sixty days from the receipt of a copy of such warrant from the officer, deliver to him a certificate, according to law, of the assessment of the taxes required by the warrant, and pay him his legal fees, he shall forthwith transmit the certificate to the State treasurer, and return the warrant unsatisfied.

**For Like Neglect County Treasurer to Issue Warrant.**

SECTION 110. If the inhabitants of a town, of which a county tax is required, neglect to choose and keep in office assessors to assess it, as the law requires, the county treasurer, for the time being, after five months from the time when they received the county commissioners' warrant for assessing it, shall issue his warrant to the sheriff, requiring him to levy and collect the sum mentioned therein; and he shall execute it, observing the regulations and subject to the conditions provided in the preceding section.

**Warrants to Be Issued to Collect of Inhabitants if Not Collected of Assessors.**

SECTION 111. If the voters of a town, of which a State or county tax is required, choose assessors who neglect to assess the tax required by the warrant issued to them, and to certify it as the law directs; and if the estates of such assessors are insufficient to pay such taxes as are already provided, the treasurer of State, or of the county, as the case may be, for the time being, shall issue his warrant to the sheriff of such county, requiring him to levy, by distress and sale, such deficiency on

the real and personal estates of such inhabitants; and the sheriff or his deputy shall execute such warrants, observing all the provisions mentioned in Section 109.

**Penalty on Assessors for Refusing to Be Sworn — Vacancy, How Filled.**

SECTION 112. Any assessor, chosen and notified to take the oath of office, unreasonably refusing to be sworn, forfeits to the town fifteen dollars, to be recovered by their treasurer in an action of debt; and the selectmen shall forthwith call a town meeting to fill the vacancy.

ASSESSMENT OF TAXES IN PLANTATIONS.

**Plantations Taxed, Invested with Power of Towns for Such Purpose.**

SECTION 113. All plantations required to pay any part of the public taxes are vested with the same power as towns, so far as relates to the choice of clerk, assessors and collectors of taxes; and any person chosen assessor therein, and refusing to accept, or to take the legal oath, after due notice, is liable to the same penalty, to be recovered in the manner mentioned in the preceding section; and the other assessors shall forthwith call a plantation meeting to fill the vacancy.

**And Subject to Same Penalties.**

SECTION 114. If any such plantation neglects to choose a clerk, assessors and collector of taxes, or if the assessors chosen neglect their duty, it shall be subject to the same penalties and proceeded against in the same manner as towns deficient in the same respect.

**Officers to Be Sworn.**

SECTION 115. The clerk, assessors, and collectors shall be sworn as similar officers chosen by a town, and shall receive the same compensation, unless otherwise agreed.

**When a Tax Is Laid on a Place Not Incorporated, County Commissioners May Cause It to Be Organized as a Plantation.**

SECTION 116. When a state or county tax is laid on a place not incorporated or organized, the treasurer of State or county commissioners,

of that county may cause the same to be organized as provided in Chapter 3, Sections 71 and 72, for the organization of plantations ascertained to contain two hundred and fifty inhabitants. If the inhabitant to whom the warrant is directed, fails to perform the duties required of him, he forfeits the sum due for State and county taxes, to be recovered by the treasurer to whom the tax is payable.

#### **Assessors, to Make Lists of Polls, Etc.**

SECTION 117. The assessors shall thereupon take a list of the ratable polls, and a valuation of the estates of the inhabitants of the plantation, and proceed to assess taxes and cause the same to be collected as required by law.

#### **Laws Applicable.**

SECTION 118. All laws applicable to organized plantations apply to plantations organized under Section 116.

#### **Neglect to Be Sworn.**

SECTION 119. Plantation officers neglecting to be sworn when notified, are liable to the same penalties as town officers so neglecting, to be recovered in the same manner.

### **COLLECTION OF TAXES IN INCORPORATED PLACES.**

#### **Towns May Fix Time for Payment and Require Interest after.**

SECTION 120. Towns, at their annual meetings, may determine when the lists named in Section 97 shall be committed, and when their taxes shall be payable, and that interest shall be collected thereafter.

#### **Not to Exceed One Per Cent. a Month.**

SECTION 121. The rate of such interest, not exceeding one per cent. a month, shall be specified in the vote, and shall be added to, and become part of the taxes.

#### **Form of Warrant for Collection of State Taxes.**

SECTION 122. The warrant to be issued by selectmen or assessors for collection of State taxes shall be in substance as follows:

ss. A. B., constable or collector of the town of ———, within the County of ———, Greeting:

In the name of the State of Maine you are hereby required to levy and collect of each of the several persons named in the list herewith committed unto you, his respective proportions therein set down, of the sum total of such list, it being said

town's proportion of the State tax for the year 190—; and to transmit and pay the same to ———, the treasurer of your town, or to his successor in office, and to complete and make an account of your collections of the whole sum on or before the ——— day of ——— next. And if any person refuses or neglects to pay the sum which he is assessed in said list, you shall distrain his goods or chattels to the value thereof, and keep the distress so taken for four days, at the cost and charge of the owner; and if he does not pay the sum so assessed within said four days then you shall sell at public vendue such distress for payment thereof, with charges, first giving forty-eight hours' notice thereof by posting advertisements in some public place in the town or plantation, as the case may be; and the overplus arising by such sale, if any, beyond the sum assessed, and the necessary charges of taking and keeping the distress, you shall immediately restore to the owner; and for want for twelve days, of goods and chattels, whereon to make distress, except implements, tools and articles of furniture, exempt from attachment for debt, you shall take the body of such person so refusing or neglecting, and him commit to the jail of the county, there to remain until he pays the same, or such part thereof, as is not abated by the assessors for the time being, or the county commissioners for said county.

Given under our hands, by virtue of a warrant from the treasurer aforesaid, this ——— day of ———, nineteen hundred and ———.

Assessors.

And a certificate of the assessment of any State tax shall be in substance as follows:

Pursuant to a warrant from the treasurer of the State of Maine, dated the ——— day of ———, nineteen hundred and ———, we have assessed the polls and estates of the ——— of ———, the sum of ——— dollars and ——— cents, and have committed lists thereof to the ——— of said ———: to ———, with warrants in due form of law for collecting and paying the same to ———, town treasurer of ———, or his successor in office, on or before the ——— day of ——— next ensuing.

In witness whereof we have hereunto set our hands at this ——— day of ——— nineteen hundred and ———.

Assessors.

No error or informality in the warrant so far as it relates to the description of the officer to whom any tax is to be paid by the collector shall render the same invalid, or relieve the collector from the duty of complying with the provisions of the statute in that behalf, or from liability on account of failure so to do.

### **Warrant for County and Town Taxes.**

SECTION 123. The warrant for collection of county or town taxes shall be made by the assessors in the same tenor, with proper changes.

### **New Warrant Issued in Case of Loss.**

SECTION 124. When an original warrant issued by assessors and delivered to a constable or collector for collection of a tax, has been

lost or destroyed by accident, the assessors may issue a new warrant for that purpose, which shall have the same force as the original.

### **Town Collectors' Compensation and Appointment of, in Certain Cases.**

SECTION 125. When towns choose collectors they may agree what sum shall be allowed for performance of their duties; but if none are chosen, or if those chosen refuse to serve or give the requisite bond, the assessors may appoint a suitable person to act as constable and collector for the collection of taxes; and if the person so appointed refuses to serve or to give the requisite bond, then they may appoint one of their own board to act as constable and collector for the collection of taxes.

### **Fees and Travel of Collector.**

SECTION 126. In case of distress or commitment for non-payment of taxes, the officers shall have the same fees which sheriffs have for levying executions, except that travel, in case of distress, shall be computed only from the dwelling house of the officer to the place where it is made.

### **Collector to Receive a Warrant.**

SECTION 127. Every collector or constable, required to collect taxes, shall receive a warrant from the selectmen or assessors of the kind hereinbefore mentioned, and shall faithfully obey its directions.

### **To Give Approved Bond.**

SECTION 128. The assessors shall require such constable or collector to give bond for the faithful discharge of his duty, to the inhabitants of the town, in such sum, and with such sureties, as the municipal officers approve; and bonds of collectors of plantations shall be given to the inhabitants thereof, approved by the assessors, with like conditions.

### **Constables, Etc., to Give Receipt on Demand — Penalty.**

SECTION 129. When a tax is paid to a collector or constable he shall give a receipt therefor on demand; and if he neglects or refuses so to do, he forfeits five dollars to the aggrieved party, to be recovered in an action of debt.

### **If Collector Dies, Assessors to Appoint One.**

SECTION 130. If a constable or collector dies before perfecting the collection of an assessment, the assessors shall appoint, at the charge

of their town, some suitable person to perfect the collection, and grant him a sufficient warrant for that purpose.

### **Plantations May Choose Collectors.**

SECTION 131. All plantations, required to pay any portion of the public taxes, have all the powers of towns so far as relates to the choice of constables and collectors and the requiring bonds from them.

### **Collectors to Distrain if Taxes Are Not Paid.**

SECTION 132. If a person refuses to pay any part of the tax assessed against him in accordance with this chapter, the person whose duty it is to collect the same, may distrain him by any of his goods and chattels not exempt, for the whole or any part of his tax, and may keep such distress for four days at the expense of the owner, and if he does not pay his tax within that time, the distress shall be openly sold at vendue by the officer for its payment. Notice of such sale shall be posted in some public place in the town, at least forty-eight hours before the expiration of said four days.

### **Overplus.**

SECTION 133. The officer, after deducting the tax and expense of sale, shall restore the balance to the former owner, with a written account of the sale and charges.

### **After Twelve Days, Notice May Imprison.**

SECTION 134. If a person so assessed, for twelve days after demand, refuses or neglects to pay his tax and to show the constable or collector sufficient goods and chattels to pay it, such officer may arrest and commit him to jail, until he pays it, or is discharged by law.

### **May before, if about to Abscond.**

SECTION 135. If the assessors think that there are just grounds to fear that any person so assessed may abscond before the end of said twelve days, the constable or collector may demand immediate payment, and on refusal, he may commit him as aforesaid.

### **When Payable by Installments, Whole May Be Demanded of One about to Remove.**

SECTION 136. When a tax is made payable by installments, and any person, who was an inhabitant of the town at the time of making such tax, and assessed therein, is about to remove therefrom before the



time fixed for any payment, the collector or constable may demand and levy the whole tax, though the time for collecting any installment has not arrived; and in fault of payment he may distrain for it, or take the course provided in Section 134.

### **Former Collectors to Complete Collections.**

SECTION 137. When new constables or collectors are chosen and sworn before the former officers have perfected their collections, the latter shall complete the same, as if others had not been chosen and sworn.

### **Collectors May Distrain Shares in a Corporation.**

SECTION 138. For non-payment of taxes, the collector or constable may distrain the shares owned by the delinquent in the stock of any corporation; and the same proceedings shall be had as when like property is seized and sold on execution.

### **Duties of Officers of the Corporation.**

SECTION 139. The proper officer of such corporation, on request of such constable or collector, shall give him a certificate of the shares or interest owned by the delinquent therein, and issue to the purchaser certificates of such shares according to the By-laws of the corporation.

### **Collectors May Collect in Any Part of State of Persons Removed.**

SECTION 140. When a person taxed in a town in which he was living at the time of assessment, removes therefrom before paying his tax, such constable or collector may demand it of him in any part of the State, and if he refuses to pay, may distrain him by his goods, and for want thereof may commit him to the jail of the county where he is found, to remain until his tax is paid; and he shall have the same power to distrain property and arrest the body in any part of the State, as in the place where the tax is assessed.

### **Collector or Administrator May Sue for Taxes—Town Magistrate May Try Case—No Cost for Plaintiff, unless Demand Is Made before Suit.**

SECTION 141. Any collector of taxes, or his executor or administrator, may, after due notice, sue in his own name for any tax, in an action of debt and no trial justice or judge of any Municipal or Police Court before whom such suit is brought, is incompetent to try the same

by reason of his residence in the town assessing said tax. Where before suit the person taxed dies or removes to any other town, parish or place in the State, or, being an unmarried woman, marries, the aforesaid notice is not requisite, but the plaintiff shall recover no costs, unless payment was demanded before suit.

**Assessments Not Void, although They Include Sums Raised for an Illegal Object—Person Paying Illegal Tax May Recover of Town.**

SECTION 142. If money not raised for a legal object, is assessed with other moneys legally raised, the assessment is not void; nor shall any error, mistake, or omission by the assessors, collector, or treasurer, render it void; but any person paying such tax, may bring his action against the town in the Supreme Judicial Court for the same county, and shall recover the sum not raised for a legal object, with twenty-five per cent. interest and costs, and any damages which he has sustained by reason of the mistakes, errors, or omissions of such officers.

**Collections How Made of Non-Residents of Improved Lands—May Be Sued after Two Months' Notice.**

SECTION 143. When the owner of improved lands living in this State, but not in the town where the estate lies, is taxed, and neglects for six months after the lists of assessment are committed to an officer for collection, to pay his tax, such officer may distrain him by his goods and chattels, and for want thereof may commit him to jail in the county where he is found; or after two months written notice, may sue him for such tax, in his own name, in an action of debt.

**Collection of Taxes on Personal Property of Non-Residents.**

SECTION 144. When the owner or possessor of goods, wares and merchandise, logs, timber, boards and other lumber, stock in trade, including stock employed in the business of any of the mechanic arts, horses, mules, neat cattle, sheep or swine, resides in any other town than the one in which such personal property is kept and taxed, the constable or collector having a tax on any such property for collection, may demand it of such owner or possessor in any part of the State, and, on his refusal to pay, may distrain him by his goods, and for want thereof may commit him to jail in the county where he is found, until he pays it or is discharged by law.

**Collectors May Demand Aid — Penalty for Refusing.**

SECTION 145. Any collector, impeded in collecting taxes in the execution of his office, may require proper persons to assist him in any town where it is necessary, and any person refusing, when so required, shall, on complaint, pay not exceeding six dollars at the discretion of the justice before whom the conviction is had, if it appears that such aid was necessary; and on default of payment, the justice may commit him to jail for forty-eight hours.

**Collectors to Exhibit Account of Collections Once in Two Months — Penalty for Neglect.**

SECTION 146. Every collector of taxes shall once in two months, at least, exhibit to the municipal officers, or where there are none, to the assessors of his town, a just and true account of all moneys received on taxes committed to him, and produce the treasurer's receipts for money by him paid; and for neglect, he forfeits to the town two and one-half per cent. on the sums committed to him to collect.

**Collectors, Removed or Removing, May Be Required to Give Up Tax Bills and Settle — New Warrant to New Collector.**

SECTION 147. When a collector, having taxes committed to him to collect, has removed, or in the judgment of the municipal officers, assessors or treasurer of a town, or committee or treasurer of a parish, is about to remove from the State before the time set in his warrants to make payment to such treasurer, or when the time has elapsed and the treasurer has issued his warrant of distress, in either case said officers or committee may call a meeting of such town or parish to appoint a committee to settle with him for the money that he has received on his tax bills, to demand and receive of him such bills, and to discharge him therefrom; said meeting may elect another constable or collector, and the assessors shall make a new warrant and deliver it to him with said bills, to collect the sums due thereon, and he shall have the same power in their collection as the original collector.

**Penalty for Refusing to Deliver Tax Bills.**

SECTION 148. If such collector or constable refuses to deliver the bills of assessment, and to pay all moneys in his hands collected by him, when duly demanded, he forfeits two hundred dollars to the town or parish, as the case may be, and is liable to pay what remains due on said bills of assessment.

**Collector Becoming Incapable, Another May Be Appointed.**

SECTION 149. When a constable or collector of taxes dies, becomes insane, has a guardian, or by bodily infirmities is incapable of doing the duties of his office before completing the collection, the assessors may appoint some suitable person a collector to perfect such collection, and may grant him a warrant for the purpose; and he shall have the same power as the disqualified collector or constable; but no person shall be so appointed without his consent; and in these cases, the assessors may demand and receive the tax bills of any person in possession thereof, and deliver them to the new collector.

**Sums by Him Overpaid to Be Stored.**

SECTION 150. When it appears that such insane or disqualified constable or collector had paid to the treasurer a larger sum than he had collected from the persons in his list, the assessors in their warrant to such new constable or collector, shall direct him to pay such sum to the guardian of such insane, or to such disqualified constable or collector.

**Treasurer of State May Issue His Warrant against Delinquent Collectors — Unsatisfied Warrants May Be Renewed.**

SECTION 151. The treasurer of State shall issue a warrant of distress, signed by him, against any constable or collector to whom a tax has been committed for collection, who is negligent in paying into the public treasury the money required within the time limited by law; and shall direct it to the sheriff of the county in which such negligent officer lives, or to his deputy, returnable in sixty days from its date, to cause the sum due to be levied, with interest from the day fixed for payment, and fifty cents for the warrant, by distress and sale of such deficient officer's real or personal estate, returning any overplus that there may be, and for want thereof, to commit him to jail until he pays it; and the sheriff shall obey such warrant. Warrants not satisfied may be renewed for the amount unpaid, and shall be of like validity and executed in like manner.

**Shall Issue Execution at Request of Municipal Officers.**

SECTION 152. When the time for collecting a State tax has expired, and it is unpaid, the treasurer of State shall, at the request of the municipal officers of any town, issue his execution against the collector thereof.

**County Treasurer to Issue His Warrants against a Delinquent Collector.**

SECTION 153. If a collector of any town fails to pay the county tax for forty days after the time fixed therefor, the county treasurer shall issue his warrant against him in due form of law, returnable in three months from its date, directed to the sheriff or his deputy, requiring him to collect the tax, with six per cent. interest thereon from the time it was payable, fifty cents for the warrant, and his own legal fees.

**Town to Pay When Its Collector Fails.**

SECTION 154. If a deficient constable or collector has no estate which can be distrained, and his person cannot be found within three months after a warrant of distress issues from the treasurer of State, or if, being committed to jail, he does not within three months satisfy it, his town shall, within three months more, pay to the State the sums due from him.

**Assessors to Make a New Assessment — Otherwise, Warrant to Issue against Them — If Not Paid within Three Months, Warrant to Be Issued against Inhabitants.**

SECTION 155. The assessors having written notice from such treasurer of the failure of their constable or collector shall forthwith, without any further warrant, assess the sum so due upon the inhabitants of their town as the sum so committed was assessed, and commit it to another constable or collector for collection; and if they neglect, the State treasurer shall issue his warrant against them for the whole sum due from such constable or collector, which shall be executed by the sheriff or his deputy, as other warrants issued by such treasurer. If after such second assessment, the tax is not paid to the treasurer within three months from the date of its commitment, the treasurer may issue his warrant to the sheriff of the county requiring him to levy it on real and personal property of any inhabitants of the town, as hereinbefore provided.

**Collector Responsible to Town for All Damages.**

SECTION 156. Such deficient collector or constable shall at all times be answerable to such inhabitants for all sums which they have been obliged to pay by means of his deficiency, and for all consequent damages.

**When Collector Dies, Administrator to Settle within Two Months—Failing to Do So, Chargeable with Amount.**

SECTION 157. If a collector or constable of a town or parish dies without settling his accounts of taxes committed to him to collect, his executor or administrator, within two months after his acceptance of the trust, shall settle with such assessors for what was received by the deceased in his life time; with the amount so received, such executor or administrator is chargeable as the deceased would be if living; and if he fails so to settle, when he has sufficient assets in his hands, he shall be chargeable with the whole sum committed to the deceased for collection.

**Treasurer to Issue His Warrants against Delinquent Collectors—Form of Warrant.**

SECTION 158. If the constable or collector of any town or parish, to whom taxes have been committed for collection, neglects to collect and pay them to the treasurer named in the warrant of the assessors by the time therein stated, such treasurer shall issue his warrant, returnable in ninety days, and in substance as follows, to the sheriff of the county or his deputy, who shall execute it:

A. B., treasurer of the ——— of ———, in the County of ———, to the sheriff of said county, or his deputy, ———,

Greeting.

Whereas C. D., of ——— aforesaid (addition), on the ——— day of 19—, being a ——— of taxes granted and agreed on by the ——— aforesaid, had a list of assessments duly made by the assessors of the ——— aforesaid, amounting to the sum of \$——, committed to him with a warrant under their hands, directing and empowering him to collect the several sums in said assessment mentioned, and pay the same to the treasurer of the ——— aforesaid by the ——— day of ———, 19—, but the said C. D. has been remiss in his duty by law required, and has neglected to collect the several sums aforesaid, and pay them to the treasurer of the ——— aforesaid: and there still remains due thereof the sum of \$——, and the said C. D. still neglects to pay it. You are hereby, in the name of the State, required forthwith to levy the aforesaid sum of \$——, by distress and sale of the estate, real or personal, of said C. D., and pay the same to the treasurer of said ———, returning the overplus, if any, to said C. D. And for want of such estate, to take the body of said C. D., and him commit to the jail in the county aforesaid, there to remain until he has paid the said sum of \$——, with forty cents for this warrant, together with your fees, or he is otherwise discharged therefrom by order of law; and make return of this warrant to myself, or my successor, as treasurer of said ———, within ninety days from this time, with your doings therein.

Given under my hand, this ——— day of ———, in the year nineteen hundred and ———, Treasurer of ———.

**Sheriff's Duty Respecting Such Warrants — Treasurer May Issue an Alias Warrant.**

SECTION 159. On each execution or warrant of distress issued by the treasurer of State, or by the treasurer of a county, town or parish, against a constable or collector, or against the inhabitants of a town, and delivered to a sheriff or his deputy, he shall make returns of his doings to such treasurer within a reasonable time after the return day therein mentioned, with the money, if any, that he has received by virtue thereof; and if he neglects to comply with any direction of such warrant or execution, he shall pay the whole sum mentioned therein. When it is returned unsatisfied, or satisfied in part only, such treasurer may issue an alias for the sum due on the return of the first; and so on, as often as occasion occurs. A reasonable time after the return day shall be computed at the rate of forty-eight hours for every ten miles distance from the dwelling house of the sheriff or his deputy to the place where the warrant is returnable.

**Warrants to Be Issued to Coroner — Sheriff Is Delinquent.**

SECTION 160. When a sheriff or deputy is deficient as aforesaid, such treasurers may direct warrants to a coroner of the county, requiring him to distrain therefor upon the delinquent's real or personal estate; and the coroner shall execute such warrants as a sheriff does on deficient constables and collectors.

**Property Distrained to Be Sold as on Execution.**

SECTION 161. Any officer selling personal property, distrained under a warrant from such treasurers against a sheriff, constable or collector, or against the inhabitants of a town, shall proceed as in the sale of such property on execution.

**How Notice of Sale of Real Estate Shall Be Given.**

SECTION 162. When a warrant of distress from such treasurers is levied on the real estate of a deficient constable, collector, sheriff, or deputy sheriff, or against the inhabitants of a town, for the purpose of sale, fourteen days' notice of the sale, and time and place shall be given, by posting advertisements in two or more public places in the town or place where the estate lies, and in two adjoining towns.

**Proceedings at Sale — Deed Made to Convey Title.**

SECTION 163. At that time and place, the officer having such warrant shall sell, at public vendue, so much of such estate, in common

and undivided with the residue, if any, as is necessary to satisfy the sum named in the warrant, with all legal charges ; and execute to the purchaser a sufficient deed thereof, which shall be as effectual as if executed by the deficient owner.

**Warrant Not Satisfied, Collector to Be Arrested on an Alias — Has Privileges of Common Debtor.**

SECTION 164. If the proceeds of such sale do not satisfy such sum and legal charges, the treasurer who issued the warrant, shall issue an alias warrant for the sum remaining due ; and the officer executing it shall arrest such deficient officer, and proceed as on an execution for debt ; and such deficient officer shall have the same rights and privileges as a debtor arrested or committed on execution in favor of a private creditor.

**Assessors May Demand Copy of Assessments of Collector and Adjust Amount.**

SECTION 165. When any constable or collector of taxes is taken on execution under this chapter, the assessors may demand of him a true copy of the assessments, which he received of them and then has in his hands unsettled, with the evidence of all payments made thereon ; and if he complies with this demand, he shall receive such credit as the assessors, on inspection of the assessment, adjudge him entitled to, and account for the balance ; but if he refuses, he shall forthwith be committed to jail by the officer who so took him, or by a warrant from a justice of the peace, to remain there until he complies ; and the assessors shall take and use copies of the record of assessments instead of the copies demanded of him.

**Towns May Choose Another Collector.**

SECTION 166. The same town or parish may, at any time, proceed to the choice of another collector, to complete the collection of the assessments, who shall be sworn and give the security required of the first collector ; and the assessors shall deliver to him the uncollected assessments, with a proper warrant for their collection, and he shall proceed as before prescribed.

**When a Person Claims to Have Paid Tax — Proceedings.**

SECTION 167. When the tax of any person named in said assessment does not thereby appear to have been paid, but such person



declares that it was paid to the former collector, the new collector shall not distrain or commit him, without a vote of such town or parish first certified to him by its clerk.

### **Sheriff to Collect When No Collector Is Chosen.**

SECTION 168. When a town neglects to choose any constable or collector to collect a State or county tax, the sheriff of the county shall collect it, on receiving an assessment thereof, with a warrant under the hands of the assessors of such town, duly chosen, or appointed by the county commissioners, as the case may be.

### **Plantations, How to Act if No Collectors Are Chosen, or if They Neglect Duties.**

SECTION 169. When plantations neglect to choose constables or collectors, or if those chosen and accepting their trust neglect their duty, such plantations shall be proceeded against as in the case of deficient towns; and such deficient constables or collectors are liable to the same penalties, and shall be removed in the same manner as deficient constables and collectors of towns.

### **Sheriff, How to Proceed to Collect— His Fees.**

SECTION 170. The sheriff or his deputy, on receiving such assessment and warrant for collection as is mentioned in the two preceding sections, shall forthwith post in some public place in the town or plantation assessed, an attested copy of such assessment and warrant, and shall make no distress for any of such taxes until after thirty days therefrom; and any person paying his tax to such sheriff within that time shall pay five per cent. over and above his tax for sheriff's fees, and no more; but those who do not pay within that time shall be distrained or arrested by such officer, as by collectors; and the sheriff may require aid for the purpose, and the same fees shall be paid for travel and service of the sheriff, as in other cases of distress.

### **Proceedings When Body Is Taken— Rights and Privileges of Party Arrested.**

SECTION 171. When an officer appointed to collect assessments by virtue of a warrant, for want of property arrests any person and commits him to jail, he shall give an attested copy of his warrant to the jailer, and certify, under his hand, the sum that he is to pay as his tax

and the costs of arresting and committing, and that for want of goods and chattels whereon to make distress, he has arrested him; and such copy and certificate are a sufficient warrant to require the jailer to receive and keep such person in custody until he pays his tax, charges, and thirty-three cents for the copy of the warrant; but he shall have the rights and privileges mentioned in Section 164.

### **When Discharged from Arrest, Town Liable for State and County Taxes.**

SECTION 172. When a person, committed for non-payment of taxes due to the State or county, is discharged by virtue of any statute for the relief of poor prisoners confined in jail for taxes, the town whose assessors issued the warrant by which he was committed shall pay the whole tax required of it.

### **Collector Liable for Tax, unless He Commits within One Year.**

SECTION 173. When a person imprisoned for not paying his tax is discharged, the officer committing him shall not be discharged from such tax without a vote of the town, unless he imprisoned him within one year after the taxes were committed to him to collect.

### **Fees for Commitment.**

SECTION 174. For commitments for non-payment of taxes, the officer shall have the same fees as for levying executions, but his travel shall be computed only from his dwelling house to the place of commitment.

### **Municipal Officers May Direct Suit for Taxes to Be Commenced against Any Delinquent — Proviso.**

SECTION 175. In addition to the other provisions for the collection of taxes legally assessed, the mayor and treasurer of any city, the selectmen of any town, and the assessors of any plantation to which a tax is due, may in writing, direct an action of debt, to be commenced in the name of such city or of the inhabitants of such town or plantation, against the party liable; but no such defendant is liable for any costs of suit, unless it appears by the declaration and by proof, that payment of said tax has been duly demanded before suit.

DUTIES OF TOWN TREASURERS, WHEN APPOINTED COLLECTORS OF  
TAXES.

**Towns May Appoint Treasurer, Collector — His Assistants  
to Give Bond. .**

SECTION 176. The inhabitants of a town may in March annually appoint their treasurer a collector of taxes ; and he may then appoint under him such number of assistants as are necessary, who shall give bond for the faithful discharge of their duties in such sum and with such sureties, as the municipal officers approve ; and he shall have such powers as are vested in collectors chosen for that purpose.

**Abatement for Voluntary Payment of Taxes — Notice Shall  
Be Posted — Abatement Not to Exceed Ten Per Cent.  
of Tax.**

SECTION 177. At any meeting, when it votes to raise a tax, a town may agree on the abatement to be made to those who voluntarily pay their taxes to the collector or treasurer at certain periods, and the times within which they are so entitled ; and a notification of such votes, and the time when such taxes must be paid to obtain the abatement, shall be posted by the treasurer in one or more public places in his town, within seven days after such commitment ; and all who so pay their taxes are entitled to such abatement ; but no person shall receive an abatement of more than ten per cent. of his tax ; and all taxes not so paid shall be collected by the collector or his deputy, under the other provisions of this chapter.

**Assessors to Deposit Assessment with Treasurer.**

SECTION 178. The assessors of any town which at its annual meeting regulates the collection of its taxes agreeably to the two preceding sections, shall assess the same in due form, and deposit them in the hands of the treasurer for collection, with their warrant for that purpose, after he and his deputies are qualified.

**Treasurers' Powers to Continue until Collection Is Completed.**

SECTION 179. All the powers granted in this chapter to treasurers, who are appointed collectors of taxes, are extended until the collection of any tax committed to them has been completed, notwithstanding the year for which they were appointed has elapsed.

**Treasurer to Give Bond.**

SECTION 180. The municipal officers of towns shall require the treasurer thereof to give bond, with sufficient sureties, for faithful performance of the duties of his office, and if he neglects or refuses it shall be deemed a refusal to accept the office, and the town shall proceed to a new choice, as in case of vacancy.

**To Render Account Once in Three Months.**

SECTION 181. Every treasurer shall render an account of the finances of his town, and exhibit all books and accounts pertaining to his office, to the municipal officers thereof, or to any committee appointed by it to examine said accounts, when required; and such officers shall examine such treasurer's accounts as often as once in three months.

**Collector of Town, and Treasurer Who Is Collector, May Issue Warrant to Sheriff to Collect Taxes—Form of Warrant—When Returnable.**

SECTION 182. The collector of taxes of any town and the treasurer of any town who is also a collector, may issue his warrant to the sheriff of any county, or his deputy, or to a constable of his town, directing him to distrain the person or property of any person delinquent in paying his taxes, after the expiration of the time fixed for payment by vote of the town, which warrant shall be of the same tenor as that prescribed to be issued by municipal officers or assessors to collector, with the appropriate changes, returnable to the collector or treasurer issuing the same in thirty, sixty or ninety days.

**May Distrain before Tax Is Due to Prevent Loss.**

SECTION 183. When such treasurer thinks that there is danger of losing by delay a tax assessed on any individual, he may distrain his person or property before the expiration of the time fixed by vote of the town.

**Ten Days' Notice before Distraining—Powers and Fees of Officers Same as Collectors.**

SECTION 184. Before such officer serves any such warrant he shall deliver to the delinquent, or leave at his last and usual place of abode a summons from said collector and treasurer, stating the amount of tax due, and that it must be paid within ten days from the time of leaving

such summons, with twenty cents for the officer for leaving the same ; and if not so paid the officer shall serve such warrant the same as collectors of taxes may do, and shall receive the same fees as for levying executions in personal actions.

#### SPECIAL PROVISIONS.

##### **Affidavit of Person Posting Notice of Land Sales — Evidence.**

SECTION 185. The affidavit of any disinterested person as to posting notifications required for the sale of any land to be sold by the sheriff or his deputy, constable or collector, in the execution of his office, may be used in evidence in any trial to prove the fact of notice ; if such affidavit, made on one of the original advertisements, or on a copy of it, is filed in the registry of the county or district where the land lies, within six months.

##### **Owners of Estate Taken for Default of Others, May Recover Its Value — Value Not Determined by Sale.**

SECTION 186. When the estate of an inhabitant of a town or parish, who is not an assessor thereof, is levied upon and taken as mentioned in Section 111, he may maintain an action against such town or parish, and recover the full value of the estate so levied on, with interest at the rate of twenty per cent. from the time it was taken, with costs ; and such value may be proved by any other legal evidence, as well as by the results of the sale under such levy.

##### **Warrants Returnable in Three Months, and May Be Renewed — Sheriff May Execute Alias Warrant.**

SECTION 187. All warrants lawfully issued by a State or county treasurer shall be made returnable in three months, and may be renewed for the collection of what appears due upon them when returned, including expenses incurred in attempting to collect them ; and the power and duty of the sheriff shall be the same in executing such alias or pluries warrant, as if it were the original.

##### **Repealed.**

SECTIONS 188–192. Repealed by Public Laws of 1895, Chapter 70.

COLLECTION OF TAXES IN INCORPORATED PLACES ON REAL ESTATE  
OF RESIDENT OWNERS.

**Lien for Taxes—Sale of Real Estate for Taxes—Notice  
How Given—Copy of Notice to Be Recorded—Clerk  
to Furnish Attested Copy of Record.**

SECTION 193. For all taxes legally assessed on real estate and on equitable interests assessed under Section 3 of said chapter, a lien is created to secure the payment of said tax, which said lien shall take precedence of all other claims on said real estate, and shall continue in force until said tax shall be paid. If any such tax remains unpaid on the first Monday in December in the year succeeding the year in which said tax was assessed, the collector shall sell at public auction so much of such real estate or interest as is necessary for the payment of said tax, interest and all the charges, at nine o'clock in the forenoon of said first Monday in December, at the office of collector of taxes, in cities, and at the place where the last preceding annual town meeting was held, in towns. In the case of the real estate of resident owners, the collector may give notice thereof and of his intention to sell so much of said real estate or interest as is necessary for the payment of said tax and all charges, by posting notices thereof in the same manner and at the same places that warrants for town meetings are therein required to be posted, six weeks before such first Monday in December, designating the name of the owner if known, the right, lot and range, the number of acres as nearly as may be, the amount of tax due, and such other short description as is necessary to render its identification certain and plain. And in the case of taxes assessed on the real estate of non-resident owners, he shall cause said notices to be published in some newspaper, if any, published in the county where said real estate lies, three weeks successively; such publication to begin at least six weeks before said first Monday in December; if no newspaper is published in said county, said notices shall be published in like manner, in the State paper; he shall, in the advertisements so published, state the name of the town, and if within three years it has been changed for the whole or a part of the territory, both the present and the former name shall be stated, and that, if the taxes, interest and charges are not paid on or before such first Monday in December, so much of the estate as is sufficient to pay the amount due therefor with interest and charges, will be sold without further notice, at public auction, on said first Monday in December, at nine o'clock in the forenoon, at the office of the collector

of taxes, in cities, and at the place where the last preceding annual town meeting was held, in towns. The date of the commitment shall be stated in the advertisement. In all cases, said collector shall lodge with the town clerk a copy of each such notice, with his certificate thereon that he has given notice of the intended sale as required by law. Such copy and certificate shall be recorded by said clerk and the record so made shall be open to the inspection of all persons interested. The clerk shall furnish to any person desiring it an attested copy of such record, on receiving payment or tender of payment of a reasonable sum therefor; but notices of sales of real estate within any village corporation for unpaid taxes of said corporation may be given by notices thereof, posted in the same manner, and at the same places as warrants for corporation meetings, and by publication, as aforesaid. No irregularity, informality or omission in giving the notices required by this Act, or in lodging copy of any of the same with the town clerk, as herein required, shall render such sale invalid, but such sale shall be deemed to be legal and valid, if made at the time and place herein provided, and in other respects according to law, except as to the matter of notice. For any irregularity, informality or omission in giving notice as required by this Act, and in lodging copy of the same with the town clerk, the collector shall be liable to any person injured thereby.

#### **Owners or Occupants to Have Written Notice of Time and Place of Sale.**

SECTION 194. After the land is so advertised, and at least ten days before the day of sale, the collector shall notify the owner, if resident, or the occupant thereof, if any, of the time and place of sale, by delivering to him in person, or leaving at his last and usual place of abode, a written notice signed by him, stating the time and place of sale, and the amount of taxes due. In case of non-resident owners of real estate, such notice shall be sent by mail to the last and usual address, if known to the collector, at least ten days before the day of sale. If such tax is paid before the time of sale, the amount to be paid for such advertisement and notice shall not exceed one dollar, in addition to the sum paid the printer, if any.

#### **Real Estate to Be Sold at Auction for Unpaid Taxes and Costs — Costs, How Divided.**

SECTION 195. When no person appears to discharge the taxes duly assessed on any such real estate of resident or non-resident owners,

with costs of advertising, on or before the time of sale, the collector shall proceed to sell at public auction, to the highest bidder, so much of that real estate or interest as is necessary to pay the tax due, with three dollars for advertising and selling it, the sum paid to the printer, twenty-five cents for each copy required to be lodged with the town clerk, twenty-five cents for the return required to be made to the town clerk, fifty cents for the town clerk for recording the same, and sixty-seven cents for the deed thereof and certificate of acknowledgment. If the bidding is for less than the whole, it shall be for a fractional part of the estate, and the bidder who will pay the sum due for the least fractional part shall be the purchaser. If more than one right, lot or parcel of land is so advertised and sold, said charge of three dollars, the twenty-five cents for each copy lodged with the town clerk, the twenty-five cents for the return made to the town clerk, and the fifty cents for the town clerk recording the same, shall be divided equally among the several rights, lots or parcels advertised and sold at any one time; and in addition, the sum paid to the printer shall be divided equally among the non-resident rights, lots or parcels so advertised and sold, when more than one parcel is advertised and sold. The collector may, if necessary to complete the sales, adjourn the auction from day to day.

**Collector to Lodge with Treasurer Certificate of Sale and Deed — Deeds Shall Not Be Delivered for the Space of Two Years — Real Estate May Be Redeemed — When Grantee Shall Receive Deed.**

SECTION 196. When real estate is so sold for taxes, the collector shall, within thirty days after the day of sale, lodge with the treasurer of his town a certificate under oath designating the quantity of land sold, the names of the owners of each parcel, and the names of the purchasers; what part of the amount of each was tax, and what was cost and charges; also a deed of each parcel sold, running to the purchasers. The treasurer shall not deliver the deeds to the grantees, but put them on file in his office, to be delivered at the expiration of two years from the day of sale, in the case of lands of resident owners, and one year from the day of sale in the case of lands of non-resident owners, if the owner does not within such time redeem his estate from the sale, by payment of the taxes, and all charges, and interest on the whole at the rate of twenty per cent. from the day of sale to the time of redemption, and costs as above provided, with sixty-seven cents for the deed



and certificate of acknowledgment. If the deed of land of a non-resident owner is recorded within thirteen months after the day of sale, no intervening attachment or conveyance shall affect the title. If so redeemed, the treasurer shall give the owner a certificate thereof, cancel the deed, and pay to the grantee, on demand, the amount so received for him. If not so paid, he shall deliver to the grantee his deed, on payment of the fees, as aforesaid, for the deed and acknowledgment, and thirty cents more for receiving and paying out the proceeds of the sale. For the fidelity of the treasurer in discharging the duties herein required, the town is responsible, and has a remedy on his bond in case of default.

**Collector to Make Return of Sale to Town Clerk, Who Is to Record — Form of Collector's Return.**

SECTION 197. The collector making any sale of real estate for non-payment of taxes, shall, within thirty days after such sale make a return, with a particular statement of his doings in making such sale, to the clerk of his town, who shall record it in the town records; and said return, if lost or destroyed, an attested copy of the record thereof, shall be evidence of the facts therein set forth in all cases where such collector is not personally interested. The collector's return to the town clerk shall be in substance as follows:

Pursuant to law I caused the taxes assessed on the real estate of non-resident owners described herein, situated in the town of ———, for the year ———, to be advertised according to law by advertising in the ——— three weeks successively, the first publication being on the ——— day of ———, and at least six weeks before the day of sale; and caused the taxes assessed on the real estate of resident owners described herein, situated in the town of ———, for the year ———, to be advertised according to law by posting notice as required by law, at the following places, six weeks before the day of sale, being public and conspicuous places in said town. I also, at least ten days before the day of sale, gave to each resident owner of said lands, or the occupant thereof, if any, in hand, or left at his last and usual place of abode, and sent by mail to the last and usual address of each non-resident owner of said lands, whose address was known to me, written notice of the time and place of said sale, in the manner provided by law; and afterwards on the first Monday of December, 19—, at nine o'clock A. M., being the time and place of sale, I proceeded to sell, according to the tenor of the advertisement, the estates upon which the taxes so assessed remained unpaid; and in the schedules following is set forth each parcel of the estate so offered for sale, the amount of taxes, and the name of the purchaser; and I have made and executed deeds of the several parcels to the several persons entitled thereto, and placed them on file in the town treasurer's office, to be disposed of as the law requires.

## SCHEDULE NO. 1.

## NON-RESIDENT OWNERS.

Name of owner.	Description of property.	Amount of tax, interest and charges.	Quantity sold.	Name of purchaser.
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## SCHEDULE NO. 2.

## RESIDENT OWNERS.

Name of owner.	Description of property.	Amount of tax, interest and charges.	Quantity sold.	Name of purchaser.
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In witness of all which I have hereunto subscribed my name, this ——— day of ———, 19—

C. D., collector of taxes of the town of ———.

**Resident Proprietors May Redeem within Two Years—  
Money to Be Received by Treasurer as Property of  
Purchaser—Town Liable Therefor.**

SECTION 198. Any person to whom the right by law belongs, may, at any time within two years from the day of sale, redeem any real estate or interest of resident proprietors sold for taxes, on paying into the town treasury for the purchaser, the full amount so certified to be due, both taxes and costs, including the sum allowed for the deeds, with interest on the whole at the rate of twenty per cent. a year from the date of the sale, which shall be received and held by said treasurer as the property of the purchaser aforesaid; and the treasurer shall pay to said purchaser, his heirs or assigns, on demand; and if not paid when demanded, the purchaser may recover it in any court of competent jurisdiction, with costs and interest at the rate of twenty per cent., after such demand. The sureties of the treasurer shall pay the same on failure of said treasurer. And in default of payment by either, the town or plantation shall pay the same with costs and interest as aforesaid.

**Deed to Be Delivered to Purchaser if Not Redeemed—Penalty if Treasurer Refuses to Deliver Deed.**

SECTION 199. If no person having legal authority so to do redeems the same within the time aforesaid by paying the full amount required by this chapter, said treasurer shall deliver to the purchaser the deeds so lodged with him by the collector; and if he wilfully refuses to deliver such deed to such purchaser, on demand, after said two years

and forfeiture of the land as aforesaid, he forfeits to the said purchaser the full value of the property so to be conveyed, to be recovered in an action of debt, with costs and interest as in other cases; the sureties of said treasurer shall make good the payment here required, in default of payment by the principal; and on the failure of both, the town is liable.

### **No Sale after Two Years — Proviso.**

SECTION 200. No sale of real estate for non-payment of taxes under said chapter shall be made by any officer to whom a warrant for their collection has been committed after two years from the date of the original commitment of such taxes, provided, that this section shall not be construed to apply to sales on executions, on attachments to enforce tax liens.

### **Record of Notice to Be Conclusive Evidence of It.**

SECTION 201. The copy of the notice of sale and the certificates thereon, deposited with the town clerk, as required in Section 193, or or it they are lost or destroyed, an attested transcript of the town clerk's record thereof, shall be conclusive evidence that such notice was given as is required by this chapter in the trial of all issues, in which the collector who made the sale is not personally interested.

### **Treasurer's Receipt Is Evidence of Redemption.**

SECTION 202. The treasurer's receipt or certificate of payment of a sufficient sum to redeem any lands taxed as aforesaid shall be legal evidence of such payment and redemption.

### **ADDITIONAL PROVISIONS.**

### **Estate May Be Bid Off for Town.**

SECTION 203. The municipal officers may employ one of their own number, or some other person, to attend the sale for taxes of any real estate, in which their town is interested, and bid therefor a sum sufficient to pay the amount due and charges, in behalf of the town, and the deed shall be made to it.

### **Owner May Redeem — Amount Received to Be Paid to Person Entitled.**

SECTION 204. In all cases where real estate has been sold for State, county or town taxes, the owner may, within the time allowed by law,

pay the sums necessary to redeem the same, into the treasury of the State, county or town to which the tax is to be paid, and such payment seasonably made shall redeem the estate. The treasurer shall pay the amount so received by him to the person entitled thereto according to the records and documents in his office.

**Validity of Sale of Real Estate for Taxes — Collector's or Treasurer's Deed Prima Facie Evidence — When Other Party May Have Judgment — What Shall Be Taken as Evidence of Facts Alleged.**

SECTION 205. In the trial of any action at law or in equity, involving the validity of any sale of real estate for non-payment of taxes, it shall be sufficient for the party claiming under it, in the first instance, to produce in evidence the collector's or treasurer's deed, duly executed and recorded, which shall be *prima facie* evidence of his title, and if the other party claims and offers evidence to show that such sale was invalid and ineffectual to convey the title, the party claiming under it shall have judgment in his favor so far as relates to said tax title, if he then produces the assessment, signed by the assessors, and their warrant to the collector, and proves that such collector or treasurer complied with the requirements of law in advertising and selling such real estate, and in all such actions involving the validity of sales made after April 26, 1895, the collector's return to town clerk's record, or if lost or destroyed, said clerk's attested copy of such record, as provided in Section 197 of said chapter, as herein amended, shall be *prima facie* evidence of all facts therein set forth.

**Life Insurance Companies Shall Be Taxed — On Real Estate — Premiums — Surplus.**

SECTION 206. Every life insurance company or association, organized under the laws of this State, in lieu of all other taxation, shall be taxed as follows: First, its real estate shall be taxed by the municipality in which such real estate is situated, in the same manner as other real estate is taxed therein. Second, it shall pay a tax of two per cent. upon all premiums, whether in cash or notes absolutely payable, received from residents of this State during the year preceding the assessment, as hereinafter provided, first deducting therefrom all dividends paid to policy holders in this State on account of said premiums. Third, it shall pay a tax of one-half of one per cent. per annum on its surplus, computed according to the laws of this State, after deducting

the value of its real estate in this State, as fixed in determining such surplus, said surplus to be determined by the insurance commissioner, and his certificate thereof to the State treasurer to be final. (P. L., 1885, Chapter 329, Section 1.)

**Shall Annually Return to Insurance Commissioner Statement of Premiums Liable to Taxation.**

SECTION 207. Every such company shall inclose in its annual return to the insurance commissioner, a statement of the amount of premiums liable to taxation, as provided in the preceding section, and of the real estate held by it on the thirty-first day of December. (Ib., Section 2.)

**Revised Statutes, Chapter 6, Sections 61 and 62, to Apply to Insurance Companies.**

SECTION 208. Revised Statutes, Chapter 6, Sections 61 and 62, so far as not inconsistent herewith, shall apply to such companies or associations. (Ib., Section 3.)

**In Suits to Collect Tax on Real Estate, if Record Title Appears to Be in Defendant, He Shall Not Deny His Title Thereto—Proviso—When Judgment Shall Be Lien on Land.**

SECTION 209. In all suits to collect a tax on real estate, if it appears that at the date of the list on which such tax was made the record title to the real estate listed was in the defendant, he shall not deny his title thereto; provided, however, if any owner of real estate who has conveyed the same shall forthwith file a copy of the description as given in his deed, with the date thereof and the name and residence of his grantee, in the registry of deeds where such deed should be recorded, he shall be free from any liability under this Act. When such suits are commenced within eighteen months from the date of the list, after such notice to the owners as the courts shall order, the judgment recovered against the defendant therein shall be a lien on the land relating back to the date of the list and continuing for thirty days after rendition of judgment, to be enforced on execution in any of the methods now provided by law. (P. L., 1889, Chapter 296.)

**How State Taxes Shall Be Collected.**

SECTION 210. All State taxes hereafter assessed shall be collected by the collector or constables of the several cities, towns and plantations

and paid by them to the treasurers of their respective cities, towns and plantations, as other taxes are paid. Said treasurers shall pay such taxes to the treasurer of State. (P. L., 1891, Chapter 136, Section 1.)

### **How County Taxes Shall Be Collected.**

SECTION 211. All county taxes hereafter assessed shall be collected by the collectors or constables of the several cities, towns and plantations, and paid by them to the treasurers of their respective cities, towns and plantations, as other taxes are paid. Said treasurers shall pay such taxes to the county treasurers of their respective counties. (Ib., Section 2.)

### **Warrants to the Treasurer of Cities, Towns and Plantations Shall Be Issued on or before First Day of September Annually.**

SECTION 212. On or before the first day of September in each year, the treasurer of State shall issue his warrant to the treasurer of each city, town and plantation in the State, therein requiring him to transmit and pay said town's proportion of the State tax for the year 19—, to ———, treasurer of State, or to his successor in office, on or before the time at which they are required to pay such tax. (Ib., Section 6.)

### **Warrants Shall Be Issued to Sheriff to Collect Taxes of Delinquent Towns.**

SECTION 213. When the time for the payment of a State tax to the treasurer of State has expired, and it is unpaid, the treasurer of State shall give notice thereof to the municipal officers of any delinquent town, and unless such tax shall be paid within sixty days the treasurer of State may issue his warrant to the sheriff of the county, requiring him to levy, by distress and sale, upon the real and personal property of any of the inhabitants of the town; and the sheriff or his deputy shall execute such warrants, observing the regulations provided for satisfying warrants against deficient collectors, prescribed by Chapter 6 of the Revised Statutes. (Ib., Section 7.)

### **Warrants Shall Be Issued by County Treasurer for Collection of County Taxes—If Tax Is Not Paid within Forty Days Warrant Shall Be Issued to Sheriff to Collect It.**

SECTION 214. On or before the first day of September of each year the county treasurer shall issue his warrants to the treasurers of the

several cities, towns and plantations in his county, requiring them to transmit and pay their town's proportion of the county tax for the year 19—, to ———, county treasurer, or his successor in office, on or before the time fixed by law for said payment. And if said town treasurer fails to pay such county tax for forty days after the time fixed therefor, said county treasurer shall issue his warrant, directed to the sheriff of the county, requiring him to levy it, by distress and sale, on real and personal property of any of the inhabitants of the town. And the sheriff or his deputy shall execute such warrants, observing all the provisions mentioned in Section 109 of Chapter 6 of the Revised Statutes. (Ib., Section 8.)

#### **Inconsistent Acts Repealed.**

SECTION 215. All Acts and parts of Acts inconsistent herewith are repealed, except so far as they relate to the collection and transmission of taxes heretofore assessed, and to any remedy therefor or proceedings in relation thereto. (Ib., Section 12.)

#### **Savings Banks and Trust and Loan Associations Shall Make Semi-Annual Statement of Assets, Loans, Investments and Deposits within and without the State—Returns Shall Be Made to Bank Examiner, Who Shall Fix Market Values and Return to State Assessor.**

SECTION 216. Every savings bank, institution for savings and trust and loan associations incorporated under the laws of the State, shall, semi-annually, on the last Saturdays of April and October, make a return, signed and sworn to by its treasurer, of the average amount of its deposits, reserve fund and undivided profits for the six months preceding each of said days, together with a statement in detail of its assets, loans and investments and its deposits within and without the State, in separate columns, with aggregates so arranged as to clearly show whether the purchase or acquisition of each item in such detailed statement was prior or subsequent to January 1, 1893. All assets, loans or investments made, purchased or acquired from the proceeds of assets, loans or investments held on said January first and thereafter renewed, sold or paid shall be entered in said statement as acquired subsequent to said January first. Said return shall be made to the bank examiner on or before the first Saturdays of May and November and within thirty days thereafter, he shall fix and determine the market values of the investments aforesaid and transmit the same with such

values so determined, to the State assessors for the assessment required by Section 2. (P. L., 1893, Chapter 258, Section 1.)

**State Assessors Shall Determine Values of the Several Franchises — Rule for Determining Values — Rate of Taxation — When Tax Shall Be Assessed.**

SECTION 217. The State assessors shall thereupon determine the values of the several franchises of the said banks, institutions and associations according to the following rule: from the average amount of deposits, reserve fund and undivided profits so returned by each bank, institution or association, there shall in each case be deducted an amount equal to the amount of United States bonds, the shares of corporation stocks such as are by law of this State free from taxation to the stockholders, and the assessed value of real estate owned by the bank, institution or association, and also an amount equal to one-seventh of such other assets, loans and investments as by said detailed statement appear to have been acquired prior to January 1, 1893, and also an amount equal to two-sevenths of such other assets, loans and investments as by such statement appear to be loans to persons resident or corporations located and doing business in this State, investments in mortgages on real estate in Maine and New Hampshire, securities of this State, public or private bonds issued or guaranteed by corporations located and doing business in this State, severally made, purchased or acquired since said January first, and also an amount equal to two-sevenths of the cash on hand and cash deposited within the State. Upon the value of each of said franchises so ascertained the State assessors shall assess an annual tax of seven-eighths of one per cent., one-half of said tax to be assessed on or before the fifteenth day of June, and one-half on or before the fifteenth day of December. The State assessors shall thereupon certify said assessments to the treasurer of State, who shall forthwith notify the several banks, institutions and associations interested. (Ib., Section 2.)

**When Taxes Shall Be Paid.**

SECTION 218. All taxes so assessed shall be paid semi-annually within ten days after the fifteenth days of June and December. One-half of the sum so paid shall be appropriated for schools, in the manner provided for tax on banks of circulation in Section 117 of Chapter 11 of the Revised Statutes, and one-half to the State. (Ib., Section 3.)



### **Warrant for Collection of Taxes -- Town.**

SECTION 219. The warrant to be issued by the assessors for the completion of the collection of taxes, under the provisions of Sections 147 and 149 of Chapter 6 of the Revised Statutes, shall be in substance as follows: (P. L., 1893, Chapter 273.)

ss. A. B., constable, or collector of the town of ———, within the County of ———.

In the name of the State of Maine you are hereby required to levy and collect of such of the several persons named in the list herewith committed unto you his respective proportion therein set down, of the sum total of such list, amounting in the aggregate to ——— dollars and ——— cents, it being the unpaid portion of the taxes assessed in the Town of ———, for the year ———, for State, county and town purposes, and to pay the same to ———, treasurer of said Town of ———, or to his successor in office, and to complete and make an account of your collections of the whole sum on or before the ——— day of ——— next. And if any person refuses or neglects to pay the sum which he is assessed in said list, you will distrain his goods or chattels to the value thereof. And in making such distress, and for want of goods and chattels, whereon to make distress, except such as are exempt by the provisions of Section 122 of Chapter 6 of the Revised Statutes, you will in all matters proceed as prescribed in Section 122 of Chapter 6 of the Revised Statutes, as fully as if it were herein set forth.

Given under our hands, by virtue of the law in such cases provided, this ——— day of ———, in the year of our Lord nineteen hundred and ———.

Assessors.

### **Association Required to Make Semi-Annual Returns — When Made -- Penalty for Making False Returns — Taxation of.**

SECTION 220. Every loan and building association doing business in this State shall semi-annually on the last Saturdays of April and October, make a return signed and sworn to by its secretary of its monthly capital dues paid in by its shareholders during the six months preceding each of said days, exclusive of withdrawals, fines, interests and premiums. Said return shall be made to the treasurer of State on or before the second Mondays of May and November, and for willfully making a false return, the secretary forfeits not less than five hundred nor more than five thousand dollars. The treasurer of such association shall pay to the treasurer of State a tax on account of such dues, of one-fourth of one per cent. a year on the amount so returned. (P. L., 1893, Chapter 274, Section 1.)

### **Taxes How Assessed.**

SECTION 221. One-half of said tax shall be assessed on the amount so returned for the six months ending on the last Saturday in April,

and the other half on the amount so returned for the six months ending on the last Saturday in October; and such tax shall be paid semi-annually, within ten days after the first Mondays in June and December. (Ib., Section 2.)

### **Capital Dues Exempt from Taxation.**

SECTION 222. All capital dues of such associations are exempt from municipal taxation to the association or to the shareholder, but real estate owned by the association, not held as collateral security, may be taxed by the town in which the same is located. (Ib., Section 3.)

### **Inventories Shall Include Lists of All Dogs—Return Shall Be Made to State Treasurer—Penalty if Town Fails to Make Return.**

SECTION 223. Assessors of cities, towns and plantations shall include in their inventories, lists of all dogs owned by or in possession of any inhabitant on the first day of April, setting the number and sex thereof opposite the names of their respective owners or persons in whose possession the same are found, and make a return to the State treasurer of said lists and also of the number of dogs killed as required by Section 7 of this Act, on or before the fifteenth day of July following; and if any city or town shall fail to return to the State treasurer on or before September first of each year, a sum of money equal to the license required by this Act, on all dogs living on the first day of July preceding, such deficiency shall be added to the State tax of such delinquent city or town for the following year. (P. L., 1893, Chapter 287, Section 1.)

### **Dogs Shall Be Registered and Licensed—Collars—License Fees—Special Kennel License—Fees.**

SECTION 224. Every owner or keeper of a dog more than four months old, shall annually, before the first day of April, cause it to be registered, numbered, described and licensed for one year, from the first day of April, in the office of the clerk of the city, town or plantation where said dog is kept, and shall keep around its neck a collar, distinctly marked with the owner's name and its registered number, and shall pay said clerk for a license the sum of one dollar and fifteen cents for each male dog, and three dollars and fifteen cents for each female dog, and a person becoming the owner or keeper of a dog after the first day of April, not duly licensed, shall cause it to be duly registered, numbered, described and licensed, as provided above. Every

owner or keeper of dogs, kept for breeding purposes, may receive annually a special kennel license authorizing him to keep such dogs for said purpose. When the number of dogs so kept does not exceed ten, the fee for such license shall be ten dollars and fifteen cents; when the number of dogs so kept exceeds ten, the fee for such license shall be twenty dollars and fifteen cents, and no fee shall be required for the dogs of such owner or keeper under the age of six months. Dogs covered by the kennel license shall be excepted from the provisions of this section, requiring registration, numbering and collaring. (Ib., Section 2.)

**Clerk Shall Issue License, Receive Fees, and Pay Same into the Town Treasury, Who Shall Pay It into State State Treasury — Record of Licenses.**

SECTION 225. The clerks of cities, towns and plantations shall issue said license and receive the money therefor, and pay the same to the treasurer of their respective cities, towns and plantations, within thirty days thereafter, retaining to their own use fifteen cents for each license issued; and the said treasurer shall pay the money so received to the State treasurer on or before September 1, of each year. Clerks of cities, towns and plantations shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed, and the sex, registered numbers and description of all such dogs, provided, however, that the sex, registered numbers and description shall not be required of dogs covered by a kennel license. (Ib., Section 3.)

**Treasurers Shall Keep Account of all Moneys Received.**

SECTION 226. Each city, town and plantation treasurer shall keep an accurate and separate account of all moneys received and expended by him under the provisions of this Act. (Ib., Section 4.)

**Penalty for Keeping Dog Contrary to Provisions of Act.**

SECTION 227. Whoever keeps a dog contrary to the provisions of this Act shall forfeit ten dollars, five of which shall be paid to the complainant and five to the treasurer of the city, town or plantation in which such dog is kept. (Ib., Section 5.)

**Warrants to Be Issued to Officers to Kill All Unlicensed Dogs — Fees of Officers.**

SECTION 228. The mayor of each city, the selectmen of towns and the assessors of plantations shall annually, within ten days from the first

day of May issue a warrant to one or more police officers or constables directing them to proceed forthwith either to kill or cause to be killed all dogs within such city, town and plantation not licensed and collared according to the provisions of this Act, and to enter complaint against the owners or keepers thereof. Such officers shall receive from the city, town or plantation one dollar for each dog so killed. All bills for such services shall be approved by the mayor of cities, and municipal officers of towns and plantations. (Ib., Section 6.)

### **Return of Warrant and What It Shall Contain.**

SECTION 229. Each police officer or constable to whom the warrant named in Section 6 of this Act is issued, shall return the same on or before the first day of July following to the officer or officers issuing the same, and shall state in said return the number of dogs killed and the names of the owners or keepers thereof, and whether all unlicensed dogs therein have been killed and the names of persons against whom complaint has been made under the provisions of this Act. (Ib., Section 7.)

### **Penalty if Officer Refuses or Neglects Duty.**

SECTION 230. Any city or town officer who refuses or wilfully neglects to perform the duties imposed by this Act shall be punished by fine not less than ten dollars nor exceeding fifty dollars by an action at law, the same to be paid into the town treasury. (Ib., Section 8.)

### **Payment of Damage Done by Dogs to Sheep, Lambs or Other Domestic Animals Provided for.**

SECTION 231. When any person, resident of this State, shall sustain any damage to his sheep, lambs or other domestic animals, by reason of their being killed or injured by dogs, he shall give information thereof to the mayor of cities or to one of the municipal officers of towns or plantations where such damage was done within twenty-four hours after he has knowledge of the same, and thereupon said mayor or municipal officers shall estimate the amount of such damage and all damage done by dogs to sheep, lambs or other domestic animals proved to the satisfaction of the above officers, to have been committed in their city, town or plantation, shall be paid by said officers, and any city, town or plantation paying such damages may maintain an action on the case against the owner or keeper of such dog or dogs, to recover such amount as may be adjudged to be the actual damage committed. (Ib., Section 9.)

**Municipal Officers Shall Annually Post Notices of Requirements of This Act.**

SECTION 232. The mayor of each city and the municipal officers of each town or plantation shall annually at least twenty days before the first day of April, post a notice in the usual place of posting notices, of their annual meetings, in their respective cities, towns and plantations, setting forth all the requirements of this chapter with the penalties for non-compliance with the same; which notices shall be forwarded annually to the several cities, towns and plantations by the secretary of State. (Ib., Section 10.)

**Owner of Registered Dog May Recover Full Value of Same if Stolen or Killed Unlawfully.**

SECTION 233. Any person who shall steal or confine and secrete any registered dog, or shall kill any such dog, unless such killing be justifiable in the protection of person or property, shall be liable to the owner in a civil action for the full value of such dog. (Ib., Section 11.)

**Joint Owners of Dogs Liable Jointly and Severally.**

SECTION 234. When any sheep, lambs or other domestic animals shall have been damaged by two or more dogs at the same time, kept by two or more persons, the owners or keepers of such dogs shall be jointly and severally liable for such damage. (Ib., Section 12.)

**When Damage Shall Be Paid by State Treasurer.**

SECTION 235. When any town shall have paid damages to the owners of sheep, lambs or other domestic animals for losses incurred from dogs, as provided in Section 9 of this Act, and are unable to identify the dog or dogs doing such damage, or to collect the amount of said damages from the owners of said dogs when identified, the municipal officers of such cities, towns and plantations shall make a statement of facts in the case, together with the amount of damages so paid, and shall transmit the same to the State treasurer, who shall reimburse to the city, town or plantation paying such damage, the amount of damage so paid; provided, however, the amount paid by the State treasurer to reimburse said cities, towns and plantations, as aforesaid, shall in no case exceed the amount received from licenses aforesaid. (Ib., Section 13.)

**How Money Remaining Unexpended in State Treasury Shall Be Disposed of.**

SECTION 236. All money received by the State treasurer as provided in Section 3 of this Act, and remaining unexpended at the end of the year shall be credited to the several cities, towns and plantations upon their State tax in proportion to the amount each has paid into the treasury under the provisions of this Act; provided, however, that the amount to be refunded to such plantations as are taxed as wild land shall be paid direct to the plantation treasurer instead of being credited on State tax. (Ib., Section 14.)

**Inconsistent Acts Repealed.**

SECTION 237. All Acts or parts of Acts inconsistent with this Act, including Public Laws of 1891, Chapter 131, are hereby repealed. (Ib., Section 15.)

**Buildings, Land, Etc., of Corporations Organized for Dealing in Real Estate Shall Be Taxed Where Situated—  
Shall Be a Lien on Property.**

SECTION 238. The buildings, lands, and all other property, real and personal, including all reserve funds, accumulations and undivided profits of corporations organized for the purpose of buying, selling and leasing real estate, shall be taxed to the corporation or the persons having possession of such property, in the place where such land and other property are situated, and there shall be a lien for two years on such property for the payment of the such tax, and the same may be sold for payment thereof as in other cases; and, shares of the capital stock of such corporations shall not be taxed to the owners thereof. (P. L., 1893, Chapter 289.)

**Loan, Trust and Banking Corporations, Subject to Municipal Taxation.**

SECTION 239. Every corporation organized under the laws of this State for the purpose of doing a loan, trust or banking business, and having a capital divided into shares, shall be subject to municipal taxation, the same as shares in national banks. The provisions of this Act shall not apply to building and loan associations. (R. S., Chapter 6, as amended by P. L., 1893, Chapter 293.)

**All State, County and Municipal Real Estate Taxes, Shall Be Liens on Such Real Estate to Secure Payment of Same — How Enforced — Real Estate May Be Redeemed within One Year.**

SECTION 240. Whenever a tax shall be assessed upon any real estate by the State, any county, city, town or plantation, there shall be a lien on said real estate to secure the payment of said tax, which said lien shall take precedence of all other claims on said real estate, and continue in force until said tax shall be paid, provided in the assessment of said tax there shall be a description of said real estate, and said lien may be enforced in the following manner. When said tax shall remain unpaid for a period of eight months after the same shall be committed to the proper officer for collection, said officer may give the person against whom said tax is assessed, or leave at his last and usual place of abode, a notice in writing, by him signed, stating the amount of said tax and describing the real estate on which the tax is assessed, and if for any reason such service of the notice cannot be given, it shall be published three weeks successively in some weekly newspaper printed in the county where the real estate lies. After such notice shall have been given, said officer may, at any time within one year after said tax shall have been committed to him for collection, bring an action of debt in his own name for the collection of said tax in any court of competent jurisdiction against the person against whom said tax is assessed, and the declaration in such action shall contain a statement of such tax, the description of the real estate contained in said notice, and an allegation that a lien is claimed on such real estate to secure the payment of the tax. Said declaration shall be inserted in a writ of attachment, and such real estate may be attached thereon and summons given to the defendant, as in other writs of attachment against persons. The officer serving such writ shall, in his return, describe the real estate which he has attached, and cause an abstract of it to be filed with the register of deeds, as is required in other cases where real estate is attached. When it shall appear that other persons besides the defendant in such action are interested in such real estate, the court shall cause them to be notified of the pendency of such action and allow them to become parties thereto. If it shall be determined in the trial of said action that such tax was assessed on said real estate and that there is a lien on said land for the payment of such tax, judgment to that effect shall be entered therein for such tax and costs of suit and execution may issue on said judgment, upon which said real

estate may be sold by such proceedings as are provided by law for sale of real estate on execution in suits where such real estate has been attached on original writs and with like effect. When such action shall be brought to collect a county tax it shall be brought in a county adjoining the one in which such land lies. In all other cases the action shall be brought in the county where the land lies. Any person interested in said real estate may redeem the same, at any time within one year after the sale of the same by the officer on such execution by paying the amount of such judgment and all costs on such execution with interest at the rate of ten per cent. per annum. This Act shall not apply to taxes now assessed. (P. L., 1893, Chapter 314, Section 1.)

**Act Shall Not Affect Law for Collection of Taxes in Other Ways.**

SECTION 241. This Act shall not affect any law now in force providing for enforcement and collection of real estate taxes in other ways. (Ib., Section 2.)

**Full Costs Shall Be Recovered in All Actions Brought under Public Laws of 1893, Chapter 314.**

SECTION 242. In all actions brought in the Supreme Judicial and Superior Courts of the State under the provisions of Chapter 314 of the Public Laws of 1893, full costs shall be recovered, notwithstanding the amount of the judgment be twenty dollars or less. (P. L., 1897, Chapter 215.)

**All Property Which Shall Pass by Will or Otherwise, to Any Person, for Enjoyment after Death of Grantor, Other than Use of Legal Heirs, Etc., of Grantor, Shall Be Subject to a Tax for Use of the State.**

SECTION 243. All property within the jurisdiction of this State, and any interest therein, whether belonging to inhabitants of this State or not, and whether tangible or intangible, which shall pass by will or by the intestate laws of this State, or by deed, grant, sale or gift made or intended to take effect in possession or enjoyment after the death of the grantor, to any person in trust or otherwise, other than to or for the use of the father, mother, husband, wife, lineal descendant, adopted child, the lineal descendant of any adopted child, the wife or widow of a son or the husband of the daughter of a decedent, or any educational, charitable or benevolent institution in this State, shall be



liable to a tax of four per cent. of its value above the sum of five hundred dollars, for the use of the State, and all administrators, executors and trustees, and any such grantee under a conveyance made during the grantor's life, shall be liable for all such taxes, with lawful interest, as hereinafter provided, until the same shall have been paid, as hereinafter directed. (P. L., 1893, Chapter 146.)

**Whenever Remainder of Any Property Is Bequeathed to a Collateral Heir, or Stranger to the Blood, It Shall Be Taxed — Shall Be Lien on Property till Paid.**

SECTION 244. Whenever any person shall bequeath or devise any property to or for the use of the father, mother, husband, wife, lineal descendant, an adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter during life or for a term of years, and the remainder to a collateral heir, or to a stranger to the blood, other than an educational, charitable or benevolent institution in this State, the value of the prior estate shall, within three months after the appointment of the executor, be appraised, in the manner hereinafter provided, and deducted, together with the sum of five hundred dollars, from the appraised value of such property, and said tax on the remainder shall be payable within one year from the death of said testator, or within such further time as the judge of probate may allow, and, together with any interest that may accrue on the same, be and remain a lien on said property until paid to the State. (Ib., Section 2.)

**Excess of Reasonable Compensation to Executors for Services When Residuary Legatees Shall Be Taxed..**

SECTION 245. Whenever a decedent appoints one or more executors or trustees, and in lieu of their allowance makes a bequest or devise of property to them which would otherwise be liable to said tax, or appoints them his residuary legatees, and said bequests, devises, or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to such tax, and the court of probate having jurisdiction of their accounts shall determine what shall be such reasonable compensation. (Ib., Section 3.)

**When Taxes Shall Be Paid.**

SECTION 246. All taxes imposed by this Act shall be payable to the treasurer of State by the executors, administrators or trustees

within thirty days from the date of the decrees determining the amount thereof; and if the same are not so paid, interest at the rate of nine per cent. shall be charged them, and collected from the time said tax became due. (Ib., Section 4.)

**Property Shall Not Be Delivered to Legatee until Tax Is Paid.**

SECTION 247. Any administrator, executor or trustee, having in charge or trust any property subject to such tax, shall deduct the tax therefrom, or shall collect the tax thereon, and interest chargeable under this Act, from the legatee or person entitled to said property, and he shall not deliver any specific legacy or property subject to said tax to any person until he has collected the tax thereon. (Ib., Section 5.)

**All Taxes Payable upon Real Estate Shall Remain a Charge Thereon until Paid.**

SECTION 248. Whenever any legacies subject to said tax shall be charged upon or payable out of any real estate, the heir or devisee, before paying the same, shall deduct said tax therefrom, and pay it to the executor, administrator or trustee, and the same shall remain a charge upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator or trustee, in the same manner as the payment of the legacy itself could be enforced. (Ib., Section 6.)

**When Legacy Is in Money for a Limited Period, Executor Shall Retain Tax on Whole Amount, Otherwise Judge of Probate Shall Make an Apportionment.**

SECTION 249. If any such legacy be given in money to any person for a limited period, such administrator, executor or trustee shall retain the tax on the whole amount; but if it be not in money he shall make an application to the judge of probate having jurisdiction of his accounts to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatee on account of said tax and for such further order as the case may require. (Ib., Section 7.)

**Executors Authorized to Sell Real Estate to Pay Such Tax.**

SECTION 250. All administrators, executors and trustees shall have power to sell so much of the estate of the deceased as will enable them

to pay said tax in the same manner as they may be empowered to do for the payment of his debts. (Ib., Section 8.)

**Inventory Copy Thereof of Any Estate Subject to Tax Shall Be Furnished State Assessors.**

SECTION 251. A copy of the inventory of every estate, any part of which may be subject to a tax under the provisions of this Act, or if the same can be conveniently separated, then a copy of such part of such inventory, with the appraisal thereof, shall be sent by mail by the register or the judge of the court of probate in which such inventory is filed, to the State assessors, within ten days after the same is filed. The fees for such copy shall be paid by the executor, administrator or trustee, and allowed in his account. (Ib., Section 9.)

**Whenever Any Real Estate Passes to Another Person and Subject to Tax, State Assessors Shall Be Informed.**

SECTION 252. Whenever any of the real estate of a decedent shall so pass to another person as to become subject to said tax, the executor, administrator or trustee of the decedent shall inform the State assessors thereof within six months after he has assumed the duties of his trust, or if the fact is not known to him within that time, then within one month after it does become so known to him. (Ib., Section 10.)

**Whenever Any Property Shall Be Refunded by Legatee, Tax Shall Be Paid Back.**

SECTION 253. Whenever for any reason the devisee, legatee or heir who has paid any such tax shall refund any portion of the property on which it was paid, or it shall be judicially determined that the whole or any part of such tax ought not to have been paid, said tax, or the due proportional part of said tax, shall be paid back to him by the executor, administrator or trustee. (Ib., Section 11.)

**How Value of Property Shall Be Fixed -- Fees of Appraisal, How Paid.**

SECTION 254. The value of such property as may be subject to said tax shall be its actual market value as found by the judge of probate, after public notice or personal notice to the State assessors and all persons interested in the succession to said property, or the State assessors or any of said persons interested may apply to the judge of probate

having jurisdiction of the estate and on such application the judge shall appoint three disinterested persons, who, being first sworn, shall view and appraise such property at its actual market value for the purposes of said tax, and shall make return thereof to said Probate Court, which return may be accepted by said court in the same manner as the original inventory of such estate is accepted, and if so accepted it shall be binding upon the person by whom this tax is to be paid, and upon the State. And the fees of the appraisers shall be fixed by the judge of probate and paid by the executor, administrator or trustee. In case of an annuity or life estate the value thereof shall be determined by the so-called actuaries' combined experience tables and five per cent. compound interest. (Ib., Section 12.)

**Court of Probate Shall Have Jurisdiction to Determine All Questions Relating to Tax — Judge Shall Fix Time for Hearing and Give Notice — Appeals May Be Taken.**

SECTION 255. The court of probate, having either principal or ancillary jurisdiction of the settlement of the estate of the decedent, shall have jurisdiction to hear and determine all questions in relation to said tax that may arise affecting any devise, legacy or inheritance under this Act, subject to appeal as in other cases, and the county attorney of the county where the hearing is had shall represent the interests of the State in any such proceedings.

The judge of probate, having jurisdiction as aforesaid, shall fix the time and place for hearing and determining such questions and shall give public notice thereof and personal notice to the executor, administrator or trustee. Appeals in behalf of the estate shall be taken in the name of the executor, administrator or trustee and service upon the county attorney of the county where the hearing is had shall be sufficient. Where appeals are taken by the State, service shall be made upon the executor, administrator or trustee. (Ib., Section 13.)

**Fees of Judges and Registers of Probate for Duties under This Act.**

SECTION 256. The fees of judges or registers of probate for the duties required of them by this Act shall be, for each order, appointment, decree, judgment or approval of appraisal of report, required hereunder, fifty cents, and for copies of records, the fees that are now allowed by law for the same. And the administrators, executors, trustees or other persons paying said tax shall be entitled to deduct the

amount of all such fees paid to the judge or register of probate from the amount of said tax to be paid to the treasurer of State. (Ib., Section 15.)

**No Final Settlement of Account Shall Be Allowed until All Taxes Have Been Paid.**

SECTION 257. No final settlement of the account of any executor, administrator or trustee shall be accepted or allowed by any judge of probate unless it shall show, on oath or affirmation of the accountant, and the judge of said court shall find that all taxes imposed by the provisions of this Act, upon any property or interest therein belonging to the estate to be settled by said account, shall have been paid, and the receipt of the treasurer of State for such tax shall be the proper voucher for such payment. (Ib., Section 16.)

**How Act Shall Be Constructed.**

SECTION 258. In the foregoing sections relating to collateral inheritances the word "person" shall be construed to include bodies corporate as well as natural persons; the word "property" shall be construed to include both real and personal estate, and any form of interest therein whatsoever, including annuities. (Ib., Section 17.)

**Act Shall Not Apply to Pending Cases.**

SECTION 259. This Act shall not apply to any case now pending in the Probate Court, and shall take effect when approved. (Ib., Section 18.)

**Failure to Pay — Administrator, Executor or Trustee Liable to State on Bond.**

SECTION 260. After failure to pay such tax, as provided in said Act, such an administrator, executor or trustee is liable to the State on his administration bond for such tax and interest, and action shall lie thereon without the authority of the judge of probate; or an action of debt may be maintained in the name of the State against any such administrator, executor or trustee, or any such grantee, for such tax and interest.

But if such administrator, executor or trustee, after being duly cited therefor, refuses or neglects to return his inventory or to settle an account, by reason whereof the judge of probate cannot determine the amount of tax, such administrator, executor or trustee shall be liable to the State on his administration bond for all damages occasioned thereby. (P. L., 1895, Chapter 96.)

**Itinerant Vendors Selling without Licenses Shall Be Guilty of a Misdemeanor — How Punished.**

SECTION 261. Every itinerant vendor, who shall sell or expose for sale, at public or private sale, any goods, wares and merchandise without State and local licenses therefor, issued as hereinafter provided, shall be guilty of a misdemeanor, and shall be punished for each offence by fine not exceeding fifty dollars or by imprisonment not exceeding sixty days, or by both such fine and imprisonment. (P. L., 1893, Chapter 259, Section 1.)

**Penalty for Advertising Sale before Proper Licenses Shall Be Issued.**

SECTION 262. All persons, both principals and agents, who shall, by circular, handbill, newspaper or in any other manner, advertise any such sales as those referred to in the section last preceding, before proper licenses shall be issued to the vendor, shall be guilty of a misdemeanor and shall be punished by fine not exceeding fifty dollars or imprisonment not exceeding sixty days, or by both such fine and imprisonment. (Ib., Section 2.)

**Vendors Shall Take Out State and Local Licenses — Shall Not Affect Right of Municipal Officers to Make Regulations.**

SECTION 263. It shall be the duty of every itinerant vendor, whether principal or agent, before commencing business, to take out a State license and local licenses in the manner hereinafter set forth, but nothing herein contained shall affect the right of any municipal officers to make such regulations relative to itinerant vendors as may be permissible under the general law or under their respective charters. (Ib., Section 3.)

**Vendors Shall Deposit Five Hundred Dollars with Secretary of State before Procuring License — Shall Not Be Transferable.**

SECTION 264. Every itinerant vendor desiring to do business in this State shall deposit with the secretary of State the sum of five hundred dollars as a special deposit, and after such deposit, upon application in proper form and a payment of a further sum of twenty-five dollars as a State license fee, the secretary of the State shall issue to him an itinerant vendor's license, authorizing him to do business in this State in conformity with the provisions of this Act for the term of one year from the date thereof.

Every license shall set forth a copy of the application upon which it is granted. Such license shall not be transferable nor give authority to more than one person to sell goods as an itinerant vendor, either by agent or clerk or in any other way than in his own proper person, but any licensee may have the assistance of one or more persons in conducting his business, who shall have authority to aid that principal, but not to act for or without him. No person shall be entitled to hold, or directly or indirectly receive the benefit of more than one State license at any one time, and any license obtained, held or used in violation of law, is void. (Ib., Section 4.)

**Applications Shall Be Sworn to and Shall Disclose Name and Residence of Owners.**

SECTION 265. All applications for State licenses shall be sworn to, shall disclose the names and residences of the owners or parties in whose interest said business is conducted, and shall be kept on file by the secretary of State, and a record shall be kept by him of all licenses issued upon such applications. All files and records, both of the secretary of State and of the several towns relative to such licenses, shall be in convenient form, and open for public inspection. (Ib., Section 5.)

**Licensee Shall Be Filed with Collector, and Local License Fee Paid — What Application for Local License Shall Specify.**

SECTION 266. Every itinerant vendor intending to sell goods in any town shall file his State license and an application for a local license with the collector of taxes for such town, and before selling, offering or exposing for sale any goods in such town shall pay to the collector for the use of such town, as a further local license fee for such sale in such town, a sum to be computed as provided in the next following section. A receipt for said local license fee when paid shall be endorsed by said collector on the back of such State license, which shall remain on file with such collector so long as such sale shall continue or such goods be kept, exposed or offered for sale in such town. Every application for a local license shall be signed by the holder of the accompanying State license, and shall specify the kind and line of goods then in stock in such town, the name of the town from which said goods were last shipped, and the name of the town in which said goods were last exposed or offered for sale. Such local license fee shall be computed and collected in each town, respectively, in which said goods shall be successively offered or exposed for sale. (Ib., Section 6.)

**Assessors Shall Have Notice, Examine Stock and Certify to Collector — Amount of Local License Fee — Fee, How Computed — Vendor Shall Pay Additional License Fee When Stock Is Increased — Supplemental License May Be Granted.**

SECTION 267. The collector of taxes for any town upon receiving an application in due form, as provided in the last preceding section, accompanied by such applicant's State license, shall forthwith give notice thereof to the assessors of said town. Said assessors, or a majority of them, shall as soon as practicable examine the stock of goods described in such application, and shall compute and certify to said collector the amount of said applicant's local license fee for such intended sale in said town which shall be a percentage on the full value of said stock of goods equal to the rate per cent. of the last preceding taxation in said town. The payment of said license fee to said collector shall authorize such applicant who has complied with all other requirements of law to sell within the limits of said town such goods, wares and merchandise as are described in his application, and for that purpose to carry in stock, in said town, goods only of the kind or line specified in his application, and not to exceed in amount at any one time the valuation on which his local license fee for such town was computed, and to continue in force so long as such licensee shall in good faith continuously keep, offer and expose for sale the same kind or line of goods specified in his application, except that such license and authority shall in any event terminate and expire on the first day of April next following the date of application.

Any itinerant vendor, who, after applying or paying for a local license, shall increase his stock kept, offered or exposed for sale in the town for which such local license fee was paid above the valuation on which local license fee was computed, without first making seasonable written application to the collector of such town for a supplemental license for such excess of stock shall be fined not less than twenty nor more than fifty dollars, and for each day such excess of stock is kept, offered or exposed for sale without payment of local license fee therefor, shall be fined not less than twenty nor more than fifty dollars, and forfeit his State license.

Supplemental licenses shall be applied for, and the fees therefor shall be computed, certified and collected in the manner provided for local license fees. (Ib., Section 7.)



**Penalty for Neglect to File Application for Local License.**

SECTION 268. Whoever as proprietor or clerk, having in his care, custody or keeping, any goods for the sale of which a local license is required, neglects or refuses to file the application for local license required by law, or whoever makes a false or fraudulent representation or statement in any application for a local license, shall be fined not less than twenty nor more than fifty dollars for each day such goods are kept, offered or exposed for sale. The penalties provided in this Act are not to be construed as substitutes for payment of local license fees. (Ib., Section 8.)

**Town Has Lien on Goods for License Fees — Collector May Maintain Action of Debt for Fee — Collector, Police Officers and Constables Charged with the Duty of Enforcement.**

SECTION 269. Every town in which is kept, exposed or offered for sale an itinerant vendor's stock of goods, has a lien on such goods for the amount due such town for local license fee on such stock, to be enforced by suit and attachment within ten days from the time such goods were first publicly offered or exposed for sale in such town. When any person liable therefor neglects or refuses to pay the local license fee provided in this Act, the tax collector of the town to which such license fee is due may maintain an action of debt by writ of attachment or trustee process therefor in the name of such town or in his own name, but for the benefit of such town.

It is made the duty of tax collectors, police officers and constables, to prosecute for violations of the provisions of this Act in their respective towns, and to report such violations promptly to the assessors for the purpose of computing and certifying such local license. Municipal Courts and trial justices shall have concurrent jurisdiction with the Supreme Judicial and Superior Courts of all complaints and prosecutions under this Act. (Ib., Section 9.)

**Vendors, before Advertising Bankrupt Sale, Etc., Shall State to Secretary of State All Facts Relating to and for Such Sale.**

SECTION 270. No itinerant vendor shall advertise, represent or hold forth any sale as an insurance, bankrupt, insolvent, assignee, trustee,

testator, executor, administrator, receiver, wholesale or manufacturers, or closing out sale or as a sale of any goods damaged by smoke, fire, water or otherwise, or in any similar form, unless he shall before so doing, state under oath to the secretary of the State, either in the original application for a State license or in a supplementary application subsequently filed, and copy on the license all the facts relating to the reasons and character of such special sale so advertised or represented, including a statement of the names of the persons from whom the goods, wares and merchandise were obtained, the date of delivery to the person applying for the license, and the place from which said goods, wares and merchandise were last taken, and all details necessary to exactly locate and fully identify all goods, wares and merchandise to be so sold. (Ib., Section 10.)

#### **Penalty for Making False Statement.**

SECTION 271. Any false statement in an application, either original or supplementary, for a license, and any failure on the part of any licensee to comply with all the requirements of the last preceding section, shall subject said itinerant vendor to the same penalty as if he had no license. (Ib., Section 11.)

#### **When State Licenses Shall Expire.**

SECTION 272. All State licenses issued under this Act shall expire by limitation one year from the date thereof, and may be, if so desired, surrendered at any time prior thereto for cancellation. (Ib., Section 12.)

#### **Upon Expiration or Surrender of License Secretary of State Shall Cancel Same — Shall Hold Special Deposit for Sixty Days.**

SECTION 273. Upon the expiration and return or surrender of each State license, the secretary of State shall cancel the same, endorse the date of delivery and cancellation thereon, and place the same on file. He shall then hold the special deposit of each licensee hereinbefore mentioned for the period of sixty days, and after satisfying any and all claims made upon the same, under Section 14, shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee depositing it. (Ib., Section 13.)

**Deposits Shall Be Subject to Attachment and Execution — To Payment of Fines and Penalties Incurred by Licensee — All Claims Shall Be Satisfied in the Order in Which Notice of Claim Is Received by Secretary of State — Deposits Shall Not Be Paid to Licensee so Long as There Are Claims against Them.**

SECTION 274. Each deposit made with the secretary of State shall be subject, so long as it remains in his hands, to attachment and execution in behalf of creditors whose claims arise in connection with business done in the State, and the secretary of State may be held to answer as trustee, under the trustee process, in any civil action in debt or case brought against any licensee, and the secretary of State shall pay over, under order of court, or upon execution, such sum of money as he may be chargeable with upon his answer, or otherwise. Said deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violation of this Act, and the clerk or recorder of the court in which, or the trial justice by whom, such fine or penalty is imposed, shall thereupon notify the secretary of State of the name of the licensee, against whom such fine or penalty is adjudged, and of the amount of such fine or penalty, and the secretary of State, if he has in his hands a sufficient sum deposited by such licensee, shall pay the sum so specified to said clerk, recorder or trial justice, and if the secretary of State shall not have a sufficient sum so deposited he shall make payment as aforesaid, of so much as he has in his hands. All claims upon deposit shall be satisfied after judgment, fine or penalty, in the order in which notice of the claim is received by the secretary of State, until all such claims are satisfied or the deposit exhausted, but no notice filed after the expiration of the sixty days' limit aforesaid shall be valid. No deposits shall be paid over by the secretary of State to the licensees so long as there are any outstanding claims or notices of claims against them, respectively, unless he is satisfied that such claims will not be prosecuted to final judgment, or that no fine or penalty will be imposed. (Ib., Section 14.)

**Construction of Words "Itinerant Vendors" — Vendor Shall Not Be Exempt by Associating Himself with Local Trader.**

SECTION 275. The words "itinerant vendors" for the purposes of this Act shall be construed to mean and include all persons, both principals and agents, who engage in a temporary or transient business in

this State, either in one locality or in traveling from place to place selling goods, wares and merchandise, and who, for the purposes of carrying on such business, hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise.

No itinerant vendor shall be relieved or exempted from the provisions and requirements of this Act by reason of associating himself temporarily with any local dealer, trader or merchant, or by conducting such temporary or transient business in connection with or as a part of the business of, or in the name of any local dealer, trader or merchant. (Ib., Section 15.)

**Act Shall Not Apply to Commercial Travelers.**

SECTION 276. The provisions of this Act shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to *bona fide* sales of goods, wares and merchandise by sample for future delivery, or to hawkers on the streets or peddlers from vehicles. (Ib., Section 16.)

**Warrants for State Taxes Shall Be Sent to County Commissioners in Month of April.**

SECTION 277. Warrants for State taxes on organized plantations taxed by the State as wild lands, shall be sent by the State treasurer to the county commissioners of the county in which such plantations are, in the month of April in each year. (P. L., 1895, Chapter 65, Section 1.)

**Shall Add Amount to Assessment for County Taxes, and Assess Same on Property of Owner—Assessors Shall Furnish County Commissioners Copy of Tax List and Valuation.**

SECTION 278. The county commissioners shall add the amount thereof to their assessment for county taxes, and assess the same on the real and personal property in such plantation to the owner, or person in possession, in accordance with their valuation thereof, including such overlay, not exceeding five per cent. thereof, as a fractional division renders convenient. The assessors of such plantations in April of each year shall furnish the county commissioners of their county a true and attested copy of the tax list and valuation made by them on the first day of said April, and the county commissioners may adopt such list and valuation as their own, making such changes therein as they think best. (Ib., Section 2.)

**Shall Appoint Collector in July and Commit Taxes for Collection.**

SECTION 279. In July of each year they shall commit the same with a warrant, in the usual form, to some inhabitant of the plantation, or in their discretion to any other person, appointing him collector, and directing him to collect and transmit the same to the county treasurer by December 1, next after the date of commitment. The county treasurer shall forthwith transmit to the State treasurer the amount of State taxes received by him. (Ib., Section 3.)

**Collector Shall Give Bond.**

SECTION 280. Such collector shall give bond to the county treasurer in such sum and with such sureties as the commissioners require, and the commissioners shall agree with him as to his compensation, which shall be paid by the county. (Ib., Section 4.)

**Collector Shall Settle, Make Return to Commissioners by the Tenth Day of December — Clerk of Courts Shall Keep Account of Amounts Received or Unpaid.**

SECTION 281. He shall settle with the commissioners by the tenth day of December in each year, and return to them his collection list, showing the amounts received or unpaid on each tax in his list. On all such taxes then unpaid, interest shall be added from the first day of December preceding at twenty per cent. until paid. The clerk of courts shall record in a book kept for that purpose such returned collector's list with the collector's return thereon showing the amounts received or unpaid on each tax in the list, which record shall be evidence of the facts therein stated.

**If Owner Fails to Pay Assessment for Roads within Time Limited, How Same Shall Be Collected — Section 82, Revised Statutes, Shall Not Apply to Road Taxes.**

SECTION 282. If any owner of property in organized plantations assessed by the State as wild lands, fails to pay the sum assessed on him for the expense of opening and making new roads, or his assessment for repairing roads, within the time limited therefor, the county commissioners in their next assessment of State and county taxes in such plantation shall place in distinct columns, the amounts due from such owners, to be collected as other State and county taxes and paid to the county treasurer; and he shall hold the same, subject to the

order of the county commissioners, to be applied by them for the repair of highways. Section 82 of Chapter 6 of the Revised Statutes shall not apply to road taxes in such plantations. (Ib., Section 5.)

### **Taxes Shall Be Lien on Property.**

SECTION 283. Such State and county taxes are a lien on the property assessed from the date of their assessment by the commissioners, to be enforced by suit, as hereinafter provided, brought at any time within one year from the time when such collection lists are returned to said commissioners. (Ib., Section 6.)

### **Action of Debt May Be Brought for Collection — How Writ Shall Run — Proceedings.**

SECTION 284. The commissioners may order the county attorney to bring an action of debt in the Supreme Judicial Court in the county where the land lies, in the name of the county, to collect such unpaid taxes with interest. The writ shall run against the person to whom the property was assessed and all persons unknown who have any interest therein. The county attorney shall file notice of *lis pendens* as provided by law in the proper registry of deeds and shall enter the writ in court. The court shall order notice to the defendants named therein and to all persons unknown, and in addition to the usual judgment against defendants shall also render judgment in *rem* against the property assessed, to be enforced by sale on execution. When the officer sells real estate on such execution he shall sell the least undivided fractional part thereof, that any person bidding will take and pay the amount due on the execution with all necessary charges for sale, and he shall deed to the purchaser such part so sold to him subject to redemption according to law, and the deed shall be construed to convey a right of entry and seizing in such part, in common and undivided, of the property assessed. (Ib., Section 7.)

### **When Real Estate Is Sold, Deed Shall Be Deposited with County Treasurer — How Property May Be Redeemed.**

SECTION 285. When real estate is sold under this Act, the deed shall be deposited with the county treasurer; and any person having an interest therein may redeem by paying the amount due thereon with interest at twenty per cent. within one year from the time of sale; whereupon the county treasurer shall cancel the deed. If not redeemed

at the expiration of the year, the county treasurer shall deliver the deed to the purchaser. The lien of the tax expires within fifteen months from the time of sale unless the deed is recorded within that time. (Ib., Section 8.)

**Sections 36, 37, 38, 99, 101, of Chapter 6, of the Revised Statutes, Applicable — Sections 72 and 77 Shall Not Apply.**

SECTION 286. So far as applicable, Sections 36, 37, 38, 99 and 101, of Chapter 6 of the Revised Statutes, with the amendments thereto, apply to proceedings under this Act. Sections 72 and 77 of said Chapter 6 shall not apply to taxes assessed under this Act. (Ib., Section 9.)

**State Treasurer and Assessors May Bring Action to Recover Taxes — Where Deeds Shall Be Deposited.**

SECTION 287. The State treasurer, in the name of the State, and the assessors of cities, towns and plantations, in the name of the city, town or plantation, may bring an action of debt within two years from the date of assessment, to collect unpaid taxes with interest and charges thereon, in accordance with the provisions of Sections 7 and 8 of Chapter 65 of the Public Laws of 1895. The deed given under Section 7, to be deposited with the State treasurer in case of suits by the State, and in other cases with the treasurer of the city, town or plantation bringing the suit. (P. L., 1897, Chapter 250.)

**Notice for Posting — Form of.**

SECTION 288. The notice for posting, or the advertisement, as the case may be, of the collector, shall be in substance as follows: (P. L., 1895, Chapter 70.)

Unpaid taxes on lands situated in the town of —, in the County of —, for the year — (N. B.) The name of the town was formerly —, (to be stated in the case of change of name, as mentioned in Section 1). The following list of taxes on real estate of resident (or non resident, as the case may be) owners in the town of —, for the year —, committed to me for collection for said town, on the — day of —, remain unpaid; and notice is hereby given that if said taxes, interest and charges are not previously paid, so much of the real estate taxed as is sufficient to pay the amount due therefor, including interest and charges, will be sold at public auction at —, in said town, on the first Monday of December, 19—, at nine o'clock A. M. (N. B. Here follows the list, a short description of each parcel taken from the inventory to be inserted in an additional column.)

C. D., Collector of taxes of the town of —.

**All Taxes Paid by Person Purchasing Estate at the Sale,  
Shall Be Paid Back by Owner Redeeming Same—  
When Non-Resident May Redeem Land.**

SECTION 289. The person interested in the estate, by purchase at the sale, may pay any tax assessed thereon, before or after that so advertised, and for which the estate remains liable, and on filing with the treasurer the receipt of the officer to whom it was paid, the amount so paid shall be added to that for which the estate was liable, and shall be paid by the owner redeeming the estate, with interest at the same rate as on the other sums. After the deed of land of a non-resident owner is so delivered, the owner has six months within which to redeem his estate, by paying to the purchaser the sum by him so paid, with interest at the rate of twenty per cent. a year. (Ib., Section 6.)

**When Non-Resident May Commence Suit—When Claim  
Shall Be Barred.**

SECTION 290. Any non-resident owner of real estate sold under Section 4 of this Act, having paid the taxes, costs, charges and interest as aforesaid, may, at any time within one year after making such payment, commence a suit against the town to recover the amount paid, and if on trial it appears that the money raised was for an unlawful purpose, he shall have judgment for the amount so paid. If not commenced within the year, the claim shall be forever barred. The suit may be in the Supreme Judicial or Superior Court, and the plaintiff recovering judgment therein shall have full costs, although the amount of damages is less than twenty dollars. (Ib., Section 9.)

**Court May Permit Collector to Amend Record and Deed  
When Errors or Defects Appear Therein.**

SECTION 291. At the trial of any action for the collection of taxes under Public Laws of 1893, Chapter 314, or any action at law or in equity involving the validity of any sale of real estate for non-payment of taxes under Revised Statutes, Chapter 6, Section 205, if it shall appear that the tax in question was lawfully assessed, the court shall have power at its discretion to permit the collector to amend his record, return or deed in accordance with the fact, when circumstantial errors or defects appear therein, provided, that the rights of third parties are not injuriously affected thereby. And if a deed be so amended, and the amended deed be thereupon recorded, it shall have the same effect



as if it had been originally made in its amended form. (Ib., Section 12.)

**Sections 188, 189, 190, 191, 192, and All Inconsistent Acts, Repealed.**

SECTION 292. Sections 188, 189, 190, 191 and 192, are hereby repealed. And all other Acts and portions of Acts inconsistent herewith, are also hereby repealed. (Ib., Section 13.)

**Inconsistent Acts to Remain in Force for Preservation of Existing Rights.**

SECTION 293. The Acts and sections declared to be repealed remain in force for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and their remedies existing by virtue of them, and so far as they apply to the collection of any tax heretofore assessed, or to any judicial proceeding, right, contract, limitation or event already affected by them. (Ib., Section 14.)

**New Vessels Shall Be Taxed at the Rate of Twenty Dollars Per Ton — Tax Shall Be Reduced Annually at Rate of One Dollar Per Ton.**

SECTION 294. All sailing vessels registered or enrolled under the laws of the United States or foreign governments, owned wholly or in part by inhabitants of this State, shall be taxed upon an appraised value of twenty dollars per ton gross tonnage for new vessels completed on or before the first day of April of each year. Vessels of one year old or more shall be reduced in value at the rate of one dollar per ton per year for each additional year of age, until they shall have reached the age of seventeen years, at and after which time said vessels shall be taxed upon an appraised value of three dollars per ton, gross tonnage. (P. L., 1895, Chapter 86, Section 1.)

**How Rebuilt Vessels Shall Be Taxed.**

SECTION 295. Vessels when rebuilt shall be taxed on the same valuation as vessels of one-half the age of such rebuilt vessels. (Ib., Section 2.)

**When Vessels Shall Be Regarded as Rebuilt.**

SECTION 296. A vessel shall be regarded as rebuilt only on an expenditure being made of not less than forty per cent. of the cost of such vessel if built entirely new. (Ib., Section 3.)

**How Vessels Shall Be Taxed When Repaired to Extent of Twenty-Five Per Cent of Cost.**

SECTION 297. Vessels if repaired to the extent of twenty-five per cent. of the costs of such vessels, if built entirely new, shall be taxed on the same valuation as vessels of five-eighths of the age of such repaired vessel. (Ib., Section 3.)

**Insurance Companies Shall Include in Returns All Sums Received from or Paid Other Companies for Re-Insurance.**

SECTION 298. Every insurance company or association which is subject to the provisions of Sections 59, 60 and 61 of Chapter 6 of the Revised Statutes, shall include in its returns of premiums collected all sums received from and paid to other companies for re-insurance of risks taken in this State; and no company shall be entitled to any deduction for premiums paid by it for re-insurance of any part of its risks taken in this State unless paid to companies admitted to and doing business in Maine. Such companies shall include in the return required of them by said Section 61, a schedule of all re-insurance effected by them, with the names of the companies in which said insurance was effected, the amount of the policies and the amount of premiums paid. (P. L., 1895, Chapter 91.)

**Appeals May Be Taken from Decision of Assessors to Supreme Judicial Court.**

SECTION 299. Any person entitled to make a complaint to the county commissioners for an abatement of his taxes may, if he so elect, appeal under the same terms and conditions from the decision of the assessors to the Supreme Judicial Court for the county in which the city or town, in which the property of such person is assessed, is situated. (P. L., 1895, Chapter 122, Section 1.)

**When Appeal Shall Be Entered and Determined.**

SECTION 300. Such appeal shall be entered at the term first occurring not less than thirty days after the assessors shall have given to the appellant, notice in writing of their decision upon his application for such abatement, and notice thereon shall be ordered by said court in term time or by any justice thereof in vacation, and said appeal shall be tried, heard and determined by the court without a jury in the manner and with the rights provided by law in other civil cases so heard. (Ib., Section 2.)

**If Appellant Has Complied with the Law, May Be Granted Abatement — If Abatement Is Not Granted Judgment Shall Be Rendered in Favor of Town — Lien Shall Continue for Thirty Days, and How Enforced — Several Claims May Be Embraced in One Appeal — Non-Resident Shall Not Be Barred of Right on Account of Failure to Bring in List — If Taxes Have Been Paid for Which Applicant Is Taxed, Judgment Shall Be Rendered against City or Town.**

SECTION 301. If upon such trial it appears that the appellant has complied with all provisions of law he may be granted such abatement as said court may deem reasonable, under the same circumstances as an abatement may now be granted by the county commissioners. If no abatement is granted, judgment shall be rendered in favor of the city or town, and for its costs, to be taxed by the court. If an abatement is granted, judgment shall be rendered in favor of the city or town for such amount, if any, as may be due, after deducting the abatement, and the court may make such order relating to the payment of costs as justice shall require. In either case execution shall issue. The lien created by statute on real estate to secure the payment of taxes shall be continued for thirty days after the rendition of judgment, and may be enforced by sale of said real estate on execution, in the same manner as attachable real estate may be sold under the provisions of the Revised Statutes, Chapter 76, Section 42, and with the same right of redemption. Claims for abatement on several parcels of real estate may be embraced in one appeal, but judgment shall be rendered, and execution shall issue, for the amount of taxes due on each several parcel. Any non-resident against whom a tax has been assessed shall not be debarred of his right to make application to the assessors for an abatement of his taxes, nor to appeal from their decision according to the provisions of this Act, by his failure to bring in a list of his estate to the assessors, but in such case, no costs shall be allowed to the appellant. The final judgment of the court shall be forthwith certified by the clerk to the assessors of the town or city where such tax was assessed, and such assessors shall in all cases carry into full effect the judgment of the Appellate Court in the same manner as if made by themselves. If it shall be alleged in the application that the applicant has paid the taxes for which he has been assessed, and if the court shall so find, judgment for the amount of the abatement granted shall be rendered against the city or town, and execution therefor, and for such costs as may be awarded, shall issue as in civil actions. (Ib., Section 3.)

**When Appeal Shall Be Tried — Exceptions May Be Taken by Either Party.**

SECTION 302. Such appeal shall be tried at the term to which the notice is returnable, unless delay shall be granted at the request of such city or town for good cause; and said court shall, if requested by such city or town, advance the case upon the docket so that it may be tried and decided with as little delay as possible. Either party may file exceptions as to the decisions and rulings of the court upon matters of law arising upon the trial, in the same manner and with the same effect as is allowed in the Supreme Judicial Court in the trial of cases without a jury. (Ib., Section 4.)

**Commissioner May Be Appointed to Hear Parties — Fees.**

SECTION 303. The court may in its discretion appoint a commissioner to hear the parties and to report to the court the facts, or the facts with the evidence. Such report shall be *prima facie* evidence of the facts thereby found. The fees of the commissioner shall be paid in the same manner as those of auditors appointed by the court. (Ib., Section 5.)

**Assessors Shall Give Notice of Decision within Ten Days.**

SECTION 304. The assessors shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon such application within ten days after they take final action thereon.

**When Soil and Growth Are Owned by Different Persons, How Valued.**

SECTION 305. When the soil of townships or tracts taxed by the State as wild land is not owned by the person or persons who own the growth or part of the growth thereon, the State assessors shall value the soil and such growth separately for purposes of taxation. (P. L., 1895, Chapter 132.)

**Action to Recover Land Sold and Deeded for Non-Payment of Taxes Shall Not Be Maintained unless Commenced within Twenty Years or before the Year 1900.**

SECTION 306. When the State has taxed wild lands, and the State treasurer has deeded it, or part of it, for non-payment of tax, by deed purporting to convey the interest of the State by forfeiture for such non-payment and his records show that the grantee, his heirs or assigns, has paid the State and county taxes thereon, or on his acres

or interest therein as stated in the deed, continuously for the twenty years subsequent to such deed; and when a person claims under a recorded deed describing wild land taxed by the State, and the State treasurer's record shows that he has, by himself or by his predecessors under such deed, paid the State and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for twenty years subsequent for recording such deed; and whenever, in either case, it appears that the person claiming under such a deed, and those under whom he claims have, during such period, held such exclusive, peaceable, continuous and adverse possession thereof, as comports with the ordinary management of wild lands in Maine, and it further appears that during such period, no former owner, or person claiming under him, has paid any such tax, or any assessment by the county commissioners, or done any other act indicative of ownership, no action shall be maintained by a former owner, or those claiming under him, to recover such land, or to avoid such deed, unless commenced within said twenty years, or before January 1, 1900. Such payment shall give such grantee or person claiming as aforesaid, his heirs or assigns, a right of entry and seizin in the whole, or such part, in common and undivided, of the whole tract as the deed states, or as the number of acres in the deed is to the number of acres assessed. (P. L., 1895, Chapter 162, Section 1.)

**Action May Be Commenced within Ten Years if Former Owner Has Been under Disability — Removal of Same.**

SECTION 307. If any such former owner, or person claiming under him, during said period of twenty years, or any portion thereof, is a minor, married woman, insane, imprisoned or absent from the United States, he may, if otherwise entitled, bring such action at any time within ten years after such disability is removed, notwithstanding said period of twenty years has expired. And if such person dies during the continuance of the disability, and no determination or judgment has been had on his title or right of action, such action may be brought by his heirs, or other person claiming under him, at any time within ten years after his death, notwithstanding the twenty years have elapsed. (Ib., Section 2.)

**Before Trial, Party Claiming to Recover Land Shall Deposit Amount of Taxes and Charges Paid by Other Party.**

SECTION 308. Before trial of an action involving the validity of a tax sale made by the State treasurer, the party claiming under such sale

may file in court treasurer's certificates showing the amount paid by him at such sales and afterwards, for State and county taxes and charges, whereupon the other party shall pay to the clerk the amount thereof with interest from each time of payment to the time of deposit, to be finally paid out by order of court to the party equitably entitled thereto; on motion the court shall determine the amount to be deposited, and when; and on failure to deposit as ordered, the court shall render judgment by default against the party so failing. (Ib., Section 3.)

### **Act Shall Not Apply to Pending Actions.**

SECTION 309. This Act shall not apply to actions between co-tenants, nor to actions now pending in court, nor to those commenced before January 1, 1900. (Ib., Section 4.)

### **Timber and Grass on Reserved Lands Held for Payment of County Taxes—Interest, and When It Shall Commence.**

SECTION 310. The timber and grass on the reserved lands in this State shall be held to the State for the payment of such State and county taxes as may hereafter be lawfully assessed against them, with interest thereon at the rate of twenty per cent. per annum, to commence upon the taxes for the year in which such assessment is made, at the expiration of one year, and upon the taxes for the following year, at the expiration of two years from the date of such assessment. (P. L., 1897, Chapter 316, Section 1.)

### **Owner May Pay His Proportion of Tax, and How Discharged.**

SECTION 311. Each owner of timber and grass so assessed may pay the part of the tax so assessed proportioned to his interest in any tract, whether in common or not; and shall receive from the treasurer of State a certificate, discharging the tax upon the interest upon which such payment is made. (Ib., Section 2.)

### **Each Interest by Acreage Shall Be Forfeited at Annual September Sale, if Tax Is Not Paid—Any Owner May Redeem Interest by Payment in One Year, of His Part of the Sums Due.**

SECTION 312. Each fractional part, or interest represented by acreage, in all such reserved lands upon which the State and county taxes and interest are not paid at the time of the annual land sale in Septem-

ber, shall be forfeited to the State, the same as in the case of lands sold for taxes; but any owner may redeem his interest in such reserved lands by tendering to the State treasurer, within one year after the date of the land sale, at which said interest was forfeited, his proportional part of all the sums due on the reserved lands in any township, together with interest at twenty per cent. per annum from date of land sale, and one dollar for release. (Ib., Section 3.)

**If Land Is Not Redeemed in One Year It Shall Remain Forfeited to the State.**

SECTION 313. If any fractional part or interest represented by acreage in such reserved lands shall not be redeemed, as provided in Section 3 of this Act, at the expiration of one year from the date of the land sale at which such interest was forfeited, then it shall be and remain wholly forfeited to the State, and shall vest in the State free from all claims by any former owner. (Ib., Section 4.)

**Timber and Grass Forfeited Shall Be Held for the Benefit of the Townships.**

SECTION 314. All timber and grass forfeited under the provisions of this Act, shall be held in trust by the State for the benefit of the townships in which such reserved lands lie, and shall be under the control of the State land agent, as provided in the case of reserved lands in organized plantations. (Ib., Section 5.)

**Land Agent Shall Make Division of Lots Partially Forfeited, and Set Off Portions to the Townships.**

SECTION 315. It shall be the duty of the State land agent to cause a division to be made, if found necessary, from time to time, of the reserved lands of public lots which have been partially forfeited, and to set off and hold the forfeited portions for the benefits of townships in which they lie, as provided in Section 5. (Ib., Section 6.)

**Taxes Due from Interests Forfeited Shall Be Deducted from Money Payable to the Townships, from Stumpage.**

SECTION 316. After such timber and grass shall be wholly forfeited to the State, it shall be the duty of the State treasurer to charge all taxes due from such interests as are forfeited to the several townships in which they lie, to be deducted from such moneys as may be payable to said townships in the future, from the sale of stumpage by the land agent. (Ib., Section 7.)

**Assessors Required to Enumerate the Poultry in the State and Estimate Value of Eggs Produced.**

SECTION 317. Assessors of cities, towns, and plantations, when taking the inventory required to be taken on April 1, 1898, and on the first day of April of each fifth year thereafter, shall enumerate the number of all kinds of poultry and forthwith return the same to the State assessors with their estimate of the value of the eggs and poultry, stated separately, produced during the year preceding; keeping their returns for each kind of poultry separate and distinct. Said property shall not be included in the tax list. (P. L., 1897, Chapter 265, Section 1.)

**Return Shall Be Published.**

SECTION 318. The State assessors shall tabulate said returns and publish them in detail, same as they now publish returns of live stock. (Ib., Section 2.)

**Foreign Banking Corporations Doing Business in This State, to Pay Tax — Rate.**

SECTION 319. Every banking association or corporation, not incorporated under the laws of this State or of the United States, that maintains a branch or agency in this State for the transaction of a banking business, shall pay to the State treasurer a tax of three-quarters of one per cent. per annum on the amount of such business done in this State. One-half of said tax shall be paid on the amount of such business for the six months ending on the last Saturday of April, and the other half on the amount for the six months ending on the last Saturday of October, or for such portion of such periods as said association or corporation may transact business in this State. The amount of such business done in this State shall be ascertained by first computing the daily average for each month of the period of all the moneys outstanding upon loans and investments and of all other moneys received, used or employed in connection with such business, and by them dividing the aggregate of such monthly averages by the number of months covered by said return; and the quotient resulting shall be deemed the amount of such business. The amount of such tax so ascertained shall be paid to the State treasurer semi-annually within ten days after the first Mondays in June and December. (P. L., 1899, Chapter 123, Section 1.)



**Shall Report to Bank Examiner Amount of Business Transacted.**

SECTION 320. It shall be the duty of such association or corporation and of the manager or agent of such branch or agency, to cause a written report to be made to the bank examiner on or before the last Saturdays of May and November of each year, verified by the oath of such manager or agent, giving the amount of such business transacted in this State under the rule given in Section 1, and stating the amount of State tax which such branch or agency is liable to pay, and setting forth in detail the daily average for each month preceding the last Saturday of April and October; and also giving such further or additional information as to the business of such foreign banking association or corporation done in this State as may be required by the bank examiner. (Ib., Section 2.)

**Shall Keep Account of Money Used and Deposits Made.**

SECTION 321. Every such banking association or corporation and its managers, agents and employees, shall cause to be kept at all times in the office where such business is transacted in this State, a full and accurate account of the moneys used or employed in such business and of the deposits therein, and such account together with the books, papers and records relating to the business done in this State, shall be subject to the inspection and examination of the bank examiner, or of any clerk designated by him, during business hours of any day on which business may legally be transacted. (Ib., Section 3.)

**Penalty for Violation of This Act.**

SECTION 322. Except as hereinbefore provided, no banking association, unless incorporated under the laws of this State or of the United States, shall maintain any branch or agency in this State for the transaction of banking business. Any officer, agent or employe of such association or corporation doing business in this State contrary to the provisions of this Act, shall be subject to a penalty of not less than one hundred nor more than five hundred dollars for each offence, to be recovered by indictment to the use of the State. (Ib., Section 4.)

(Franchise tax, see P. L., 1901, Chapter 229, P. L., 1899, Chapter 123, P. L., 1901, Chapter 165.)

## ORDINANCES.

**Assessors to Make Out Tax Bills.**

SECTION 1. It shall be the duty of the assessors to make out and deliver to the treasurer and collector, at the time of the commitment of taxes in each year, tax bills for all the taxes assessed upon all resident and non-resident persons and estates, with the name and address of the same marked thereon.

**Treasurer to Enforce Payment of Taxes.**

SECTION 2. The treasurer and collector shall immediately issue the tax bills, and if the same are not paid on or before the thirty-first day of December next succeeding the date of commitment of said bills to him, he shall issue a summons to each delinquent person assessed, and if such person shall not pay his taxes within ten days after the receipt of such summons, or after the service thereof in the usual form, the said treasurer and collector shall issue his warrant for the collection of said taxes, according to law.

**Interest to Be Charged after September 1.**

SECTION 3. On all taxes assessed for each and every year interest shall be charged at the rate of six per cent. per annum, commencing on the first day of September in each year. On all such taxes as shall be paid on or before the thirty-first day of October next succeeding the day of commitment the interest shall be remitted by the collector.

## **CHAPTER 93.**

# **TELEPHONE AND TELEGRAPH COMPANIES.**

(See also Electrical Appliances, page 289.)

### **RULES AND REGULATIONS OF THE MAYOR AND ALDERMEN.**

#### **Conduit Rights Granted New England Telephone and Telegraph Company.**

SECTION 1. The board of mayor and aldermen hereby grants permission to the New England Telephone and Telegraph Company to construct and maintain underground conduits, cables and wires for the conduct of its business in such of the streets of the city as said board may deem advisable, and to construct therein and to maintain the necessary manholes and house connections; also to erect and maintain distributing poles at the termini of such conduits and at suitable distributing points, all of which shall be done in accordance with the regulations hereinafter provided and subject to existing ordinances, and such rules and regulations in addition to, or amendment hereof, as may hereafter be passed.

#### **Construction, Manner of.**

SECTION 2. The said conduits shall be of suitable kind and construction, such as said board shall approve, and the work shall be done in a thorough manner and to the approval and satisfaction of said board, or the approval of any person or persons whom said board of mayor and aldermen may select. The said distributing and other poles shall be of such height and other dimensions and of such form and material, and so located, as to be satisfactory to the board of mayor and aldermen, and shall be subject to their approval or the approval of any person or persons whom the board of mayor and aldermen may select.

**Streets Not to Be Opened without Permit.**

SECTION 3. The surface of a street shall not be disturbed for the purpose of laying, repairing or removing wires or conduits, or erecting or removing distributing or other poles, unless a written permit or license therefor shall have first been obtained from the mayor and aldermen or from some person by them authorized for that purpose, indicating the time, manner and place of opening such streets, and the time within which such work shall be completed. But this provision shall not be construed as requiring any permit for the opening of man-holes for the purpose of drawing in, removing or repairing wires and cables.

**Openings in Streets, How to Be Made—Repair of Streets.**

SECTION 4. When an opening is made in a street for any of the purposes aforesaid, the portion of the street so opened shall be restored to a condition satisfactory to the commissioner of public works, and shall be kept in such condition for two years thereafter, and if not so restored and maintained by the said New England Telephone and Telegraph Company, said commissioner of public works may cause the same to be done at the expense of said company.

**New England Telephone and Telegraph Company Not to Interfere with Wires of Other Companies.**

SECTION 5. The New England Telephone and Telegraph Company in laying, repairing or removing its wires or conduits, shall not disturb, or in any way interfere with any street railway or electric light wires, or any conduits for wires then existing, or any gas or water pipes, or sewers or pipes therewith connected. The provisions of Section 19 of the ordinances respecting streets (page 728) shall apply to telephone and telegraph companies.

**Location of Conduits May Be Changed by the City.**

SECTION 6. In case the City of Portland finds it necessary to construct or enlarge sewers or other public works in streets where such conduits are laid, which shall require the changing of the location of said conduits, said changing shall be at the expense of the said New England Telephone and Telegraph Company, which shall forthwith carry out all orders of the board of mayor and aldermen respecting the same.

**Work to Be Done within Six Months after Authority Granted.**

SECTION 7. The New England Telephone and Telegraph Company shall commence work contemplated by any authority granted to it, within six months from the granting of the authority, unless restrained by process of law, and shall continue the work with reasonable diligence until suitable conduits have been laid in the location designated in its application for authority, and duly granted by the board of mayor and aldermen.

**Conduits Not to Be Removed without License of Mayor and Aldermen.**

SECTION 8. The New England Telephone and Telegraph Company shall not remove its conduits unless permitted to do so by the board of mayor and aldermen.

**Conduits May Be Removed When Ordered by Board of Mayor and Aldermen.**

SECTION 9. The New England Telephone and Telegraph Company shall remove its conduits to other suitable locations whenever ordered to do so by the board of mayor and aldermen.

**Conditions of Agreement with New England Telephone and Telegraph Company.**

SECTION 10. No permit shall be granted, or if granted shall be valid, to disturb the surface of a street for any of the purposes aforesaid, until the New England Telephone and Telegraph Company has executed an agreement in a form satisfactory to and approved by the mayor, providing:

I. That in every underground conduit, constructed by said company, sufficient and necessary space shall be reserved and maintained free of charge, for the use of the fire, police and other signal wires belonging to the city and used exclusively for municipal purposes, and that the city electrician shall be allowed access to said conduits at all times, and shall be allowed facilities and privileges in putting in or taking out wires equal in all respects to those of said New England Telephone and Telegraph Company.

II. That said company will indemnify and save harmless the said city against all damages, costs and expense whatsoever to which the said city may be subjected in consequence of the acts or neglects

of said company, its agents or servants, or in any manner arising from the rights and privileges granted it by the city.

III. That said company shall, before a street is disturbed for the laying of its wires or conduits, execute a bond with surety or sureties, to be approved in writing by the mayor, in a penal sum of not less than ten thousand dollars (\$10,000), conditioned to fulfill all of its agreements with the city and its duties under these rules and regulations, and new and additional bonds of like import at any time when required by the board of mayor and aldermen, which new bonds shall be strengthening bonds unless the surety or sureties on former bonds are expressly released from further liability by vote of the city council.

IV. That the company will, as soon as a conduit is constructed, remove thereto such wires as it is intended to accommodate, and remove all wires from any conduit, the license to use which has been revoked by the board of mayor and aldermen.

V. That said company will at once comply with any changes in its conduits, manholes or poles that the board of mayor and aldermen may, after hearing duly appointed, order.

#### **Location, How Revoked and Altered.**

SECTION 11. Any authority granted by said board of mayor and aldermen may, after notice and hearing, be revoked or altered at any time without liability on the part of the city therefor; but in case any location in any street shall be revoked, a substitute location in some other street, that will in the opinion of the said board accommodate the service, shall be granted.

## **CHAPTER 94.**

# **TREASURER AND COLLECTOR.**

### **Statutes.**

#### **Powers and Duties of Treasurer — Bond.**

SECTION 1. The treasurer of the City of Portland shall also be the collector for said city with all the powers of collectors of taxes under the laws of this State. He shall be styled "treasurer and collector," and shall give but one bond, said bond to be approved by the mayor and aldermen, for the faithful performance of his duties; and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this Act are required to be changed. The method of keeping, vouching and settling his accounts, shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments, in whatever year assessed, as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office. (City Charter, Section 20.)

#### **Treasurer to Give Bond.**

SECTION 2. The municipal officers of towns shall require the treasurer thereof to give bond, with sufficient sureties, for faithful performance of the duties of his office, and if he neglects or refuses, it shall be deemed a refusal to accept the office, and the town shall proceed to a new choice, as in case of vacancy. (R. S., Chapter 6, Section 180.) 69 Me. 369.

**Treasurer Responsible.**

SECTION 3. The treasurer and the sureties upon his official bond are responsible for all acts and omissions of his deputy in such office. (R. S., Chapter 3, Section 19.)

**Town Clerk to Notify State Treasurer of Election of Town Treasurer or No Money Will Be Paid to Town.**

SECTION 4. When a town treasurer is elected and qualified, the clerk shall communicate his name to the treasurer of State, and no city, town or plantation shall receive any money from the treasurer of State until the name of its treasurer has been so communicated. (R. S., Chapter 3, Section 42.)

**Money Not to Be Paid by Treasurer except on Orders Drawn by Mayor.**

SECTION 5. No money shall be paid out of the city treasury except on orders drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor by the city council; and the city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons intrusted with the receipt, custody or disbursement of money. (City Charter, Section 7.)

**Treasurers May Sue in Their Own Names.**

SECTION 6. Treasurers of State, counties, towns and corporations may maintain suits in their own names as treasurers on contracts given to them or their predecessors, and prosecute suits pending in the name of their predecessors. (R. S., Chapter 82, Section 16.) 74 Me. 219.

**Treasurer to Receive Money in Trust for Cemetery Purposes.**

SECTION 7. Any person owning or interested in a lot in a public burial place of a city or town, a sum of money not exceeding five hundred dollars, may deposit with the treasurer of such city or town, a sum of money not exceeding five hundred dollars, for the purpose of providing for the preservation and care of such lots, or its appurtenances, which sum shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or By-laws of such city or town, in relation to burials. (P. L., 1887, Chapter 145.)



## ORDINANCE.

**Treasurer to Be Custodian of Bonds.**

SECTION 1. The city treasurer shall be the custodian of all bonds of indemnity required of persons under contract with, or in any way liable to, the city, except his own bond, which shall be in the custody of the city clerk.

(See "Finance" and "Taxes.")

For further powers and duties see Index.

## **CHAPTER 95.**

# **TREES.**

### **Statutes.**

#### **Cities May Make By-laws Respecting Trees in Street— Trees Not a Defect in the Street.**

SECTION 1. Towns, cities and village corporations may make By-laws or ordinances not inconsistent with law, and enforce them by suitable penalties, respecting the location and protection of trees, within the limits of their roads, ways and streets; and no trees, if located in accordance with such By-laws and ordinances, shall be deemed defects in such road, way or street. (R. S., Chapter 3, Section 59.)

#### **Trees about Burying Lots.**

SECTION 2. A sum not exceeding five per cent. of the amount committed to him, may be expended by a surveyor, under the direction of the municipal officers, in planting trees about public burying grounds, squares and ways within his district, if the town by vote authorizes it. (R. S., Chapter 18, Section 64.)

#### **Injury to Trees — Penalty.**

SECTION 3. Whoever wilfully and maliciously cuts down, destroys or otherwise injures any shrub or tree for ornament or use, shall be punished by imprisonment for no less than one year, and by fine not exceeding one hundred dollars. (R. S., Chapter 127, Section 9.)

(NOTE. By the provisions of the Public Laws of 1895, Chapter 102, Section 8, electric companies are forbidden to injure, cut down or destroy, any tree or shrub standing or growing for the purpose of shade or ornament.)

## ORDINANCES.

**Ornamental Trees on Streets, Etc., Not to Be Removed, Etc., without Consent of Mayor and Aldermen — Penalty if Horses, Etc., Mutilate or Destroy.**

SECTION 1. No person shall remove, mutilate or destroy any ornamental tree planted, or that may hereafter be planted, in any of the streets, alleys, squares, or other public places within the limits of the city, without a permit in writing from the mayor and aldermen. Whoever violates any of the provisions of this section shall be fined not less than five nor more than fifty dollars for each offence. If any owner or driver of any horse or other animal shall suffer them to mutilate or destroy any tree as aforesaid, such owner or driver shall pay a like penalty for such offence. 37 Me. 330.

**Trees Shall Not Be Injured without Consent of Mayor and Aldermen — Horses and Animals Shall Not Be Fastened to — Shall Not Injure — Penalties.**

SECTION 2. No person, except by permission of the mayor and aldermen, shall climb, break, peel, cut, deface, either by posting bills of any description, or otherwise remove, injure or destroy any of the trees growing, or which shall hereafter be planted, on the walks or promenades, or in the streets or public places of the city; and no person shall in any way fasten any horse or other animal to any of said trees, or allow any animal owned by him or under his control, to stand so near to the same that they may be gnawed or otherwise injured by any horse or other animal so fastened or permitted to stand. Whoever violates any of the provisions of this section shall be fined not less than five nor more than fifty dollars for each offence.

**Duty of City Marshal to Prosecute — Fines, Etc., Collected to Constitute Fund for Replanting Trees.**

SECTION 3. It shall be the duty of the city marshal to prosecute all violations of this ordinance, and the fines and forfeitures thus collected shall constitute a fund for replanting of such trees as have been thus removed or destroyed.

**Trees, Etc., Taken to Be Legally Established.**

SECTION 4. All trees now placed and being within the limits of the streets of the city are hereby declared to be and shall be taken to be legally established and located.

**See Lampposts — How Legally Located.**

SECTION 5. Any tree or any post for the protection of the same shall be taken to be legally established within the limits of any street of the city, when it has been located therein by order or with approval of the mayor and aldermen.

**Record.**

SECTION 6. When an order is given, under the provisions of the preceding section, it shall be recorded by the city clerk in a book provided for that purpose and kept in his office.

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**TRUANTS.**

(See Page 707.)

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**UNDERTAKERS.**

(See Interment of the Dead, Page 423, *et seq.*)

## **CHAPTER 96.**

# **VETERAN FIREMEN.**

### **Statute.**

#### **City Authorized to Furnish Rooms for Veteran Firemen's Association.**

SECTION 1. The city council of the City of Portland is hereby authorized to provide a room for the meetings of the Veteran Firemen's Association of the said city, and quarters for the safe keeping of the apparatus belonging to the same, also to make arrangements with said association to furnish assistance to the fire department of said city in emergency when called therefor. (Special Laws, 1893, Chapter 411.)

## **CHAPTER 97.**

# **VINEGAR.**

### **Statutes.**

#### **Adulteration of Vinegar.**

SECTION 1. Whoever manufactures for sale, or knowingly offers or exposes for sale, or knowingly causes to be branded or marked as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively therefrom, but into which any foreign substance, ingredient, drug or acid has been introduced, as appears by proper tests, shall, for each offence, be fined not less than fifty nor more than one hundred dollars. (R. S., Chapter 128, Section 8.)

#### **Use of Bad Ingredients.**

SECTION 2. Whoever manufactures for sale, or knowingly offers or exposes for sale, vinegar found, upon proper tests, to contain any preparation of lead, copper or sulphuric acid, or other ingredient injurious to health, shall, for each offence, be fined not less than one hundred dollars. (Ib., Section 9.)

#### **Inspectors.**

SECTION 3. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of vinegar, for their respective municipalities, who shall be sworn before entering upon their duties. (Ib., Section 10.)

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### **ORDINANCES.**

#### **Inspector of Vinegar, Appointment of — Notice of Appointment.**

SECTION 1. The mayor and aldermen of the City of Portland, shall annually appoint an inspector of vinegar for the City of Portland, who shall be sworn before entering upon the duties of the office. Such inspector shall publish a notice of his appointment for two weeks in a daily newspaper published in the City of Portland.

**Registration — Penalty.**

SECTION 2. It shall be the duty of each person or firm engaged in the business of selling vinegar within the limits of the City of Portland. to file annually with the inspector a statement of his name, residence and place of business to the end that said statement may be registered in a book kept for that purpose, and in default of so doing said person or firm shall forfeit twenty dollars.

**Duties of Inspector.**

SECTION 3. It shall be the duty of the inspector to receive and register said statement and grant a certificate of registration upon the request of the person or firm filing the same. The inspector, when thereunto requested in writing by any citizen of Portland, shall make inspection within the limits of the city of any vinegar sold or offered or intended for sale within the same, and also upon his own motion, without previous notice, at least once a year and oftener at his discretion, shall visit all places where vinegar is sold within the city, and make a thorough inspection of the kind and quality of vinegar offered or intended for sale. It shall also be the duty of said inspector to prosecute all violation of the statutes of the State and ordinances of the city relating to the sale of vinegar. At the close of each municipal year said inspector shall make a detailed report to the board of mayor and aldermen.

**Compensation of Inspector, How Paid.**

SECTION 4. The compensation of the inspector shall be as follows: Twenty-five cents for making the registration as required by Section 2, and granting a certificate therefor, to be paid by the person requesting the same. Fifty cents for making inspection of vinegar, to be paid by the person requesting the same to be made. And said inspector shall be entitled to one-half of all forfeitures accruing to the city in all prosecutions instituted by him for violations of the statute of the State or ordinance of the city relating to the sale of vinegar.

## **CHAPTER 98.**

# **VITAL STATISTICS.**

### **Statutes.**

(Chapter 154 of Public Laws of 1891, as amended.)

### **Secretary of State to Be Registrar of Vital Statistics — To Furnish Blanks.**

SECTION 1. The secretary of the State board of health shall be the registrar of vital statistics for the State, and shall furnish to clergymen, and others authorized to marry, to sextons, to physicians, town clerks, clerks of the society of Friends, and to clerks of courts, a copy of this Act, and suitable blanks for recording births, marriages, deaths and divorces, so printed, with appropriate headings, as readily to show the following facts and such others as may be deemed necessary to secure an accurate registration.

### **What Record of Birth Shall State.**

I. The record of a birth shall state its date and place of occurrence, full Christian and surname, if named, color and sex of child, whether living or stillborn, and the full Christian and surnames, color, occupation, residence and birthplace of parents.

### **What Record of Marriage Shall State.**

II. The record of marriage shall state its date and place of occurrence, the name, residence, and official character of the person by whom solemnized, the full Christian and surnames of the parties, the age, color, birthplace, occupation and residence of each, the condition, whether single or widowed, whether first, second or other marriage, and the full Christian and surnames, residence, color, occupation and birthplace of their parents.

### **What Record of Death Shall State.**

III. The record of a death shall state its date, the full Christian and surname of the deceased, the sex, color, condition, whether single or married, age, occupation, place of birth, place of death, the full Christian and surnames and birthplaces of parents, and the disease or other cause of death, so far as known.



## **CHAPTER 94.**

# **TREASURER AND COLLECTOR.**

### **Statutes.**

#### **Powers and Duties of Treasurer — Bond.**

SECTION 1. The treasurer of the City of Portland shall also be the collector for said city with all the powers of collectors of taxes under the laws of this State. He shall be styled "treasurer and collector," and shall give but one bond, said bond to be approved by the mayor and aldermen, for the faithful performance of his duties; and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this Act are required to be changed. The method of keeping, vouching and settling his accounts, shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments, in whatever year assessed, as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office. (City Charter, Section 20.)

#### **Treasurer to Give Bond.**

SECTION 2. The municipal officers of towns shall require the treasurer thereof to give bond, with sufficient sureties, for faithful performance of the duties of his office, and if he neglects or refuses, it shall be deemed a refusal to accept the office, and the town shall proceed to a new choice, as in case of vacancy. (R. S., Chapter 6, Section 180.) 69 Me. 369.

**Treasurer Responsible.**

SECTION 3. The treasurer and the sureties upon his official bond are responsible for all acts and omissions of his deputy in such office. (R. S., Chapter 3, Section 19.)

**Town Clerk to Notify State Treasurer of Election of Town Treasurer or No Money Will Be Paid to Town.**

SECTION 4. When a town treasurer is elected and qualified, the clerk shall communicate his name to the treasurer of State, and no city, town or plantation shall receive any money from the treasurer of State until the name of its treasurer has been so communicated. (R. S., Chapter 3, Section 42.)

**Money Not to Be Paid by Treasurer except on Orders Drawn by Mayor.**

SECTION 5. No money shall be paid out of the city treasury except on orders drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor by the city council; and the city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons intrusted with the receipt, custody or disbursement of money. (City Charter, Section 7.)

**Treasurers May Sue in Their Own Names.**

SECTION 6. Treasurers of State, counties, towns and corporations may maintain suits in their own names as treasurers on contracts given to them or their predecessors, and prosecute suits pending in the name of their predecessors. (R. S., Chapter 82, Section 16.) 74 Me. 219.

**Treasurer to Receive Money in Trust for Cemetery Purposes.**

SECTION 7. Any person owning or interested in a lot in a public burial place of a city or town, a sum of money not exceeding five hundred dollars, may deposit with the treasurer of such city or town, a sum of money not exceeding five hundred dollars, for the purpose of providing for the preservation and care of such lots, or its appurtenances, which sum shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or By-laws of such city or town, in relation to burials. (P. L., 1887, Chapter 145.)

the convenience of the inhabitants of the town, and such appointment shall be in writing and recorded in the office of the town or city clerk.

**Clerk and Sub-Registrars May Issue Burial Permits in Contiguous Towns.**

SECTION 9. Town clerks and sub-registrars may issue burial permits to persons in contiguous towns, when by so doing it would be more convenient for those seeking a permit, but in all cases the permit shall be made returnable to the town clerk of the town in which the death occurred.

**Assessors Shall Make Return of Births.**

SECTION 10. The assessors shall, when taking the annual inventory, collect and return to the town clerk, before the first day of June, the births which have occurred within their respective jurisdictions, during the year ending December 31, next preceding, together with the names of such children.

**City Clerk Required to Make Return to State Registrar, Annually.**

SECTION 11. The clerk of every town shall keep a chronological record of all births, marriages, and deaths reported to him, and shall annually, in the month of June, transmit a copy of the record of all births, marriages, and deaths occurring during the year ending December 31 next preceding such said report, to the State registrar, together with the names, residences, and official stations of all such persons as have neglected to make returns to him in relation to the subject matters of such records, which the law required them to make, all to be made upon blanks to be prepared and furnished by the State registrar.

**Clerks of Courts to Make Return of Divorces.**

SECTION 12. The clerk of courts for the several counties shall, annually, during the month of February, make returns to the registrar of vital statistics in relating to libels for divorce in their respective counties for the calendar year next preceding. Such returns shall specify the following details: the number of divorces granted, and the names of the parties including the maiden name, and any other former name of female, if any, when ascertainable.

**Duty of State Registrar.**

SECTION 13. The State registrar shall cause the returns made to him in pursuance of the preceding Sections 11 and 12 to be arranged alphabetically for convenient reference, and carefully preserved in his office. He shall annually make and publish a general abstract and report of the returns of the preceding year in such form as will render them of practical utility, not more than two thousand five hundred copies of which shall be printed and bound in cloth, one copy of which shall be forwarded to every town, one copy to each senator and representative, one copy to each State and territory in the union, and the remainder to such departments, libraries and persons as the State registrar shall direct.

**Appropriation for Printing.**

SECTION 14. The sum of one thousand dollars per annum, or as much thereof as may be necessary, is hereby appropriated for printing and binding the circulars and blanks, for postage, and to defray the expenses of clerical work in carrying out the provisions of this Act.

**City Clerk's Record Prima Facie Evidence.**

SECTION 15. The town clerk's record of any birth, marriage or death, or a duly certified copy thereof, shall be *prima facie* evidence of such birth, marriage or death, in any judicial proceeding.

**Penalty for Violation of Provisions of This Act.**

SECTION 16. If any person shall wilfully neglect or refuse to perform any duty imposed upon him by the provisions of this Act, it shall be a misdemeanor, and he shall be fined not more than one hundred dollars for each offence, for the use of the town in which the offence occurred, and it shall be the duty of the State registrar to enforce this section as far as comes within his power, and when the State registrar knows, or has good reason to believe, that any penalty or forfeiture under this Act has been incurred, he shall at his discretion forthwith give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, which notice shall state, as near as may be, the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty, as said State registrar may have been able to learn, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

**Fees of Clerk.**

SECTION 17. The clerk of each city or town shall be paid by such city or town for receiving, recording and returning the facts required to be recorded by this Act, the sum of fifteen cents for each birth, marriage and death, and for each birth or death duly reported to the town clerk physicians shall receive twenty-five cents from the town in which the birth or death has occurred. It shall be the duty of the town clerk to enforce, so far as comes within his power, Sections 3, 4, 6, 7 and 10, of Chapter 118, Public Laws of 1891, and when he knows of any birth, marriage or death, which is not reported to his office in accordance with the provisions of said chapter, he shall collect, so far as he is able to do so, the facts called for in the blank certificates of birth, of marriage, or of death, as furnished by the State registrar, and shall record them, as is prescribed in said Chapter 118; and for every birth, marriage or death thus collected and recorded he shall receive from the town the sum of twenty-five cents.

**When Act Takes Effect.**

SECTION 18. This Act shall take effect and be in force on and after January 1, 1892, and all Acts and parts of Acts inconsistent with this Act are hereby repealed.

**Physician in Attendance Shall Furnish Certificate of Cause of Death.**

SECTION 19. A physician who has attended a person during his last illness shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, and the date of his death; and a physician or midwife who has attended at the birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate, stating to the best of his knowledge and belief, the fact that such child died after birth or was born dead. It shall be a misdemeanor for any person to make a false return in regard to any birth or death.

**Birth, Marriage or Death in Unincorporated Place—How Reported.**

SECTION 20. When a birth, marriage or death occurs in an unincorporated place, it shall be reported to the town clerk in the town which is nearest to the place at which the birth, marriage or death took

place, and shall be recorded by the town clerk to whom the report is made; and all such reports and records shall be made and recorded, and returned to the State registrar, as is provided in Chapter 118, Public Laws of 1891.

**Clerk Shall Make Copy of Record on First Monday of Each Month.**

SECTION 21. The clerk of each town shall, on the first Monday of each month, make a certified copy of the record of all deaths and births recorded in the books of said town during the previous month, whenever the deceased person, or the parents of the child born were resident in any other town in this State at the time of said death or birth, or whenever they were recently resident in any other town, or whenever the remains of any deceased person have been carried to any other town for burial; and shall transmit said certified copies to the clerk of the town in which said deceased person or parents were resident at or near the time of said birth or death, or to which the remains of such deceased person have been carried for burial, stating in addition the name of the street and the number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk so receiving such certified copies shall record the same in the books kept for recording deaths or births.

Such certified copies shall be made upon blanks to be furnished for that purpose by the registrar of vital statistics.

**Bodies of Persons Dying of Cholera, Etc. — Heart Failure Sufficient Cause for Burial Permit.**

SECTION 22. No body of a deceased person whose death was caused by cholera, yellow fever, diphtheria, scarlet fever, typhus fever, typhoid fever, smallpox, or other pestilential disease, shall be removed from place to place in this State by any railroad, steamboat, or other common carrier, unless there shall be attached to the outer case in which said body is inclosed a certificate from the board of health where such person died, stating the disease causing such death, and that necessary precautions against infection satisfactory to said board have been observed. It is further provided that a certificate of death, giving heart failure as the only cause of death, shall not be deemed sufficient upon which to issue a burial permit, and such certificate must be returned to the physician who made it for the proper correction and definition. If the body of a deceased person is brought into this State

from without for burial, and if it is accompanied by a permit issued by the legally constituted authorities of the State from which it was brought, such permit shall be received as sufficient authority upon which the clerk of the town in which said body is to be buried shall issue a permit for burial; but if it is not accompanied by such permit then the person or persons in charge of it shall apply for a burial permit to the clerk of the town in which it is to be buried, and the clerk of the town shall issue such permit when furnished with satisfactory information.

### **Violations, How Punished.**

SECTION 23. The provisions of this Act shall be enforced, and violation hereof shall be punished, as provided by Section 16 of Chapter 118 of the Public Laws of 1891, unless otherwise provided for by law.

### **Repeal of Former Acts.**

SECTION 24. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

## CHAPTER 99.

# WARDS.

### Statutes.

#### City Divided into Nine Wards—City Charter—Wardens and Clerks—Ward Meetings, How Called.

SECTION 1. The city shall remain divided into nine wards; and it shall be the duty of the city council, once in ten years or oftener, to revise, and if it be needful, to alter such wards, in such manner as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a warden and clerk, who shall hold their offices for one year from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the wards. The warden shall preside at all ward meetings with the powers of moderators of town meetings. If at any meeting the warden shall not be present, or shall refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden *pro tempore* shall be chosen. If both are absent, or shall refuse to act, a warden and clerk *pro tempore* shall be chosen. The clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office all such records and journals, together with all other documents and papers held by him in said capacity. The voters of each ward may choose two persons to assist the warden in receiving, sorting and counting the votes. All regular ward meetings shall be notified and called by warrant from the mayor and aldermen, in the manner prescribed by the laws of this State for notifying and calling town meetings by the selectmen of the several towns. (City Charter, Section 11, as amended by Public Laws, 1899, Chapter 190.)



**Island Ward.**

SECTION 2. In addition to the nine wards, the several islands within the City of Portland are so far constituted a separate ward as to entitle the legal voters thereon to choose a warden, ward clerk, and one constable, who shall be residents on such islands. They shall hold their ward meetings on any one of the islands which a majority of the qualified voters residing on said islands may designate, and may, on the days of election, vote at the place designated for all officers named in the warrant calling the meeting. The warden shall preside at all meetings, receive the votes of all qualified electors present whose names are borne on the lists; shall sort, count and declare the votes in open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person, and a fair record thereof, in presence of the warden and in open meeting, and a copy of the list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward 1, within eighteen hours after the close of the polls, to become a part of the record of said ward; and all votes thus thrown shall be deemed as thrown in and belonging to ward 1. All meetings of the voters of said island ward, for choice of municipal officers, shall, after the business of the meeting is transacted, stand adjourned for two days to determine whether an election has been effected; and adjournments may be had, not exceeding two days at one time, until the election has been effected. If the warden or clerk of said island ward shall be absent at any election, a warden or clerk may be chosen *pro tempore*. Or in case of a failure or omission to elect a warden or clerk, said officers may be chosen at any legal meeting duly called in said ward.

(NOTE. See next section, making two island wards for certain purposes.)

**Islands to Be in Two Wards for Election of Certain Officers.**

SECTION 3. The several islands within the City of Portland are so far constituted two separate wards as to entitle the legal voters of each of said wards to choose a warden, ward clerk and one constable, who shall be residents on said islands and of their respective wards. The first of said wards shall comprise Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the City of Portland, and the ward meetings of said first ward shall be holden on Long Island. The second of said

wards shall comprise the remaining islands within the City of Portland, and the ward meetings of said second ward shall be holden on Peak's Island. (P. L., 1879, Chapter 97.)

### **Wards, Change in Limits, How Made.**

SECTION 4. No change made by the city council, in the limits of any city ward, shall be valid, unless it is approved by a majority of the legal registered voters of such city, at the election of any city officers, held next after such action of said council, and warrants for such ward meetings shall contain an article for that purpose. (R. S., Chapter 3, Section 31.)

### **ORDER OF CITY COUNCIL, PASSED FEBRUARY 19, 1872.**

I. Ordered, That the present division of the wards of the city, made March 10, A. D. 1862, be changed, and that the following described lines be the boundaries of the same:

Ward 1. Commencing at the harbor at a point parallel with the line of the center of Waterville street, thence on such line to the center of Monument street, thence on such line to the center of Mountfort street, thence on such line across Congress street to the center of Washington street (Washington avenue) and Back Cove bridge to the channel of Back Cove, comprising all the city territory north and east of this line.

Ward 2. Commencing at the harbor at a point parallel with the line of the center of India street, thence through the center of India street to Congress street, thence through the center of Congress street to Locust street, thence through the center of Locust street to Cumberland street, thence through the center of Cumberland street to Boyd street, thence through the center of Boyd street to the channel of Back Cove, comprising all the territory between this line and the before-mentioned line of ward 1.

Ward 3. Commencing at the harbor at a point parallel with the line of the center of Market street, thence through the centre of Market street to Congress street, thence through the centre of Congress street to a line parallel with the southwest line of the lot of land on which the city and county buildings stand, thence on the southwest and northwest lines of said lot to Myrtle street, thence through the center of Myrtle street to the channel of Back Cove, comprising all the territory between this line and the before-mentioned line of ward 2.

Ward 4. Commencing at the harbor at a point parallel with the center of Maple street, thence through the center of Maple street to Pleasant street, thence through the center of Pleasant street to Oak street, thence through the center of Oak street to Congress street, thence through the center of Congress street to Casco street, thence through the center of Casco street to Cumberland street, thence through the center of Cumberland street to Hanover street, thence through the center of Hanover street to the channel of Back Cove, comprising all the territory between this line and the before-mentioned line of ward 3.

Ward 5. Commencing at the harbor at a point parallel with the line of the center of Park street, thence through the center of Park street to Congress street, thence through the center of Congress street to State street, thence through the center of State street across Portland street to the creek that divides Portland and Deering, comprising all the territory between this line and the before-mentioned line of ward 4.

Ward 6. Commencing at the harbor, at a point parallel with the line of the center of Clark street, thence through the center of Clark street to Pine street, across Pine street to West street, through the center of West street to Carleton street, thence through the center of Carleton street to Congress street, thence through the center of Congress street to Grove street (Deering avenue), thence through the center of Grove street (Deering avenue) to the line dividing Portland from Deering, comprising all the territory between this line and the before-mentioned line of ward 5.

Ward 7. Comprising all the territory southwest of the before-named line of ward 6.

II. Ordered, That the foregoing division of the city into seven wards shall be in force and take effect from and after the time that it shall have been approved by the legal voters of this city at ward meetings held for the election of city officers.

(NOTE. The division as above was approved by the legal voters, March 4, 1872.)

Ward 8. Ward 8 shall consist of that part of the City of Deering lying westerly of the following described line, namely: beginning on the Back Bay at a point where the center of Pearl street in said Portland, if extended, would intersect the present boundary line of Portland, thence in a straight line across Back Bay to the center of Chenery street in the City of Deering, thence by the center of Chenery street to the center of Ocean street (avenue), thence by the center of Ocean

street (avenue) to the center of Forest avenue, thence by the center of Forest avenue to the center of Pleasant street (avenue), thence by the center of Pleasant street (avenue) to the center of Stevens Plains avenue (Stevens avenue), thence by the center of Stevens Plains avenue (Stevens avenue), to the center of Spring street (Woodford street), thence by the center of Spring street (Woodford street) to the center of Brighton street (avenue), thence by the center of Brighton street (avenue), to the Westbrook city line. (P. L., 1899, Chapter 190.)

Ward 9. Ward 9 shall consist of that part of the city of Deering lying easterly of said line. (Ib.)

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## WATCH AND WARD.

(See title Police, Chapter 77, Page 535.)

## **CHAPTER 100.**

# **WATER.**

### **Statutes.**

#### **Act of Incorporation of the Portland Water Company — Purpose of Corporation.**

SECTION 1. John B. Brown, St. John Smith, Samuel E. Spring, Rensselaer Cram, Rufus E. Wood, Jacob McLellan and Dennis W. Clark, with their associates and successors, are hereby made a corporation by the name of the Portland Water Company, for the purpose of conveying to the City of Portland, a supply of pure water for domestic and municipal purposes, including the extinguishment of fires, the supply of shipping and the use of manufacturing establishments. (P. L., 1866, Chapter 159, Section 1. Approved February 23, 1866.)

#### **Property.**

SECTION 2. Said corporation may hold real and personal estate necessary and convenient for the purpose aforesaid, not exceeding in amount one million dollars. (Ib., Section 2.)

#### **Powers—Where to Take Water.**

SECTION 3. Said corporation is hereby authorized for the purposes aforesaid, to take and hold so much of the waters of Lake Sebago as may be necessary for the adequate supply of water for the City of Portland, and may also take and hold, by purchase or otherwise, any land or real estate necessary for erecting or maintaining dams and reservoirs, and for laying and maintaining aqueducts for conducting, discharging, distributing and disposing of water, and for forming reservoirs thereof, (Ib., Section 3, and amendment of 1867, Chapter 364, Section 3.)

#### **Liability to Damages.**

SECTION 4. Said corporation shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land or mill privilege, or by flowage, or excavating through any land

for the purpose of laying down pipes, building dams, or constructing reservoirs ; and if any person sustaining damage, as aforesaid, and said corporation shall not mutually agree upon the sum to be paid therefor, such person may cause his damages to be ascertained in the same manner and under the same conditions, restrictions and limitations as are by law prescribed in the case of damages by the laying out of highways. (Act 1866, Chapter 159.)

### **Capital Stock.**

SECTION 5. The capital stock of said company shall not exceed one million dollars, and shall be divided into shares of one hundred dollars each. Said capital stock shall be applied exclusively to the supply and distribution of water for the purposes set forth in this Act. (Ib., Section 5.)

### **Rights of City of Portland.**

SECTION 6. At or after the expiration of six years from the date of acceptance of this Act by said corporation, the City of Portland shall have the right to take, exercise and control all the property, rights, powers and privileges of said corporation, on paying to said corporation such sums as may be agreed upon by the city and said corporation ; or in case they cannot agree upon the sum to be paid, such sum shall be fixed upon by three commissioners, who shall be appointed by the Supreme Court upon the application of said city, and who shall fairly appraise the property and rights of said company, and return their report thereof to the Supreme Judicial Court in the County of Cumberland, which report, when accepted, shall be final and conclusive upon the parties, and the said court may make any orders or decrees, or issue any process, necessary to carry the same into effect. (Ib., Section 6, and P. L., 1867, Chapter 364, Section 2.)

### **Continued.**

SECTION 7. If said corporation shall not be organized and its works put into actual operation within three years from the approval of this Act, the City of Portland shall succeed to all the rights and privileges herein granted. (P. L., 1866, Chapter 159.)

### **Liability for Injury to Private Property.**

SECTION 8. Nothing contained in this Act shall be construed to affect or diminish the liability of said corporation for any injury to pri-

vate property by depreciating the value thereof, or otherwise, but said corporation shall be liable therefor in an action on the case. (Ib., Section 8.)

### **Authority to Lay Pipes, Etc.**

SECTION 9. The said company are hereby authorized to lay down, in and through the streets of said city, and to take up, replace and repair, all such pipes, aqueducts, and fixtures as may be necessary for the objects of their incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe; and any obstruction in any street of said city, or taking up, or displacement of any portion of any street without such consent of the city council, or contrary to the rules and regulations that may be prescribed as aforesaid, shall be considered a nuisance, and said company shall be liable to indictment therefor and to all the provisions of law applicable thereto; and said company shall, in all cases, be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up, or displacement of any street by said company whatever, with or without the consent of the city council, together with the counsel fees and other expenses incurred by said city in defending any suit to recover damages as aforesaid, with interest on the same to be recovered in an action for money paid to the use of said company. (Ib., Section 9.)

### **Same.**

SECTION 10. Whenever the company shall lay down any pipes or aqueducts in any street, or make any alteration or repairs upon their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable, and shall at their own expense, without unnecessary delay, cause the earth and pavement removed by them to be replaced in proper condition. They shall not be allowed, in any case, to obstruct or impair the use of any public or private drain, or common sewer, or reservoir; but said company shall have the right to cross, or where necessary, to change the direction of any private drain in such a manner as not to obstruct or impair the use thereof, being liable for any injury occasioned by any such crossing or alteration, to the owner thereof or any other person, in an action upon the case. (Ib., Section 10.)

**Water to Portland.**

SECTION 11. Said corporation shall furnish at all times, to the City of Portland, without expense to the city, for use in the public buildings, schoolhouses of the city, and for the extinguishment of fires, such amount of water as may be needful therefor; the necessary pipes and hydrants for distribution thereof for the purposes named in this section, being furnished, laid and connected with the pipes of this company at the expense of the city. (Ib., Section 11.)

**Power of City in the Company.**

SECTION 12. At any time after the organization of the corporation the City of Portland shall be authorized, upon a vote of the city council to that effect, to take and hold in the capital stock of the company an amount not exceeding one-half thereof, upon paying to the company a like proportional part of the cost up to such time of all their buildings, works, dams, reservoirs, pipes and other property, and ten per centum of such proportional part in addition thereto. The amount so received by the company for the proportional part so taken by the city, shall be distributed and paid over to the other stockholders in proportion to their several interests, and the par value of the several shares held by them shall be reduced accordingly. The company shall at the same time create and issue to the city such a number of shares of the same par value, together with a fractional share, if necessary, as shall represent the whole amount paid by the city for the proportional part of the capital stock so taken; at all meetings of the stockholders of the company the shares held by the city shall be represented by such agent as the city council may, by vote, from time to time appoint, who shall be entitled to cast one vote for every share held by the city, and if said company shall neglect to comply with the provisions of this section for the space of one month after an offer and request from the mayor to that effect, all the rights and privileges of said company shall wholly cease and be of no effect; and in the event of a disagreement between the said company and the city as to the cost, up to the time of such offer, of the property of said company as hereinbefore set forth, then upon application of said city the same shall be determined by commissioners appointed in the same manner as is provided in Section 6 of this Act, whose report, when accepted by the Supreme Judicial Court, shall be final and conclusive as to the amount of cost up to such time of the property of said company. (Ib., Section 12.)



**Penalty for Obstructing Streets, Etc.**

SECTION 13. If said company or any of their servants or officers employed in effecting the objects of the company, shall wilfully or negligently place or leave any obstruction in any of the streets of Portland, beyond what is actually necessary in constructing their works, laying down, taking up, and repairing their pipes and fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street in which the earth or pavement may have been removed by them, the company shall be subject to indictment therefor in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fines as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictment aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer injury in his person or property by reason of any such negligence, wilfulness or omission, he shall be entitled to recover damages of the company therefor, by an action on the case in any court of competent jurisdiction. (Ib., Section 13.)

**Penalty for Injuring Property and Corrupting Waters.**

SECTION 14. Any person who shall maliciously injure any of the property of said company, or who shall corrupt the waters of said creek or any of its tributaries, or render them in any manner impure, or who shall throw the carcasses of dead animals or other offensive matter or materials into the waters of said creek or its tributaries, or leave the same upon the same when frozen, or who shall in any manner wilfully destroy or injure any dam, reservoir, aqueduct, pipe, hydrant, or other property held, owned or used by said corporation for the purposes of this Act, shall pay three times the amount of damages to said company, to be recovered in any proper action; and every such person, on conviction of either of said Acts, shall be punished by fine not exceeding five thousand dollars, and by imprisonment not exceeding one year. (Ib., Section 14.)

**Erecting Dams, Etc.**

SECTION 15. If in the erection and construction of the works herein provided for, it shall become necessary to erect any dam or permanent works over tide waters, the said company is hereby authorized to erect, construct and maintain the same, first having the authority, in writing, of the harbor commissioners of Portland harbor therefor, and the approval of the city council of said city. (Ib., Section 15.)

**Power of Mayor and Aldermen.**

SECTION 16. The mayor and aldermen, for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said corporation, which may in any manner affect the health, safety or convenience of the inhabitants of said city. (Ib., Section 16.)

**First Meeting.**

SECTION 17. The first meeting of said corporation may be called by a notice signed by any two of the corporators, published five days successively before the day fixed for such meeting, in any newspaper published in Portland. (Ib., Section 17.)

**Corporation May Issue Bonds.**

SECTION 18. The said corporation may issue its bonds for the construction of its works, upon such rates and time as it may deem expedient, not exceeding in all the sum of eight hundred thousand dollars, and secure the same by a mortgage of the franchise and property of said company. (Act, 1867, Chapter 364, Section 3.)

**City May Exempt from Taxation for Six Years.**

SECTION 19. The city council of the City of Portland, may, by vote exempt any property of said corporation not now in existence, from taxation for the term of six years. (Ib., Section 4.) 67 Me. 135.

**An Act Additional to Water Company Charter — Contracts Binding.**

SECTION 20. Any contract or stipulations which may be made by the city council of Portland on behalf of said city, and the Portland Water Company, as a condition of giving the consent of said city council, required in the Special Laws of 1866, Chapter 159, Section 9, entitled, "an Act to supply the people of Portland with pure water," shall be binding on the parties thereto. (Special Laws, 1868, Chapter 497.)

**Same.**

SECTION 21. The city council may embody such conditions and stipulations as may be agreed upon by said parties, and may be deemed necessary to protect the interest of the inhabitants of said city, in the ordinance by which the consent required in said Section 9 shall be given, and such ordinance shall be binding on said water company.

But nothing in such ordinance contained shall relieve said company from any of the duties and liabilities imposed by said Act to which this Act is additional. (Ib., Section 2.)

### **Court of Equity to Compel Performance.**

SECTION 22. In addition to all legal remedies which may at any time exist, the Supreme Judicial Court shall have jurisdiction in equity, to compel the performance of all such conditions and stipulations, or of any contract or agreement made by said city and said company by virtue of such conditions and stipulations; and for this purpose it may grant injunctions and make decrees of specific performance by said company of such conditions, stipulations and contracts, upon a summary hearing, and from time to time modify such injunctions and decrees as the case may require, in accordance with the rules and practice in equity proceedings in relation to injunctions. (Ib., Section 3.)

### **Board of Commissioners.**

SECTION 23. After the city council of Portland shall have given its consent for said company to lay their pipes in the streets, as provided in Section 9 of the Act aforesaid, and shall have entered into a contract with the said company as authorized to do by this Act, the mayor and aldermen of said city, at any time thereafter, may and are hereby authorized and empowered to appoint a board of commissioners, consisting of three citizens of Portland, whose duty it shall be to see that the regulations made by virtue of said Act, and the terms and conditions agreed upon between the city and said company are punctually observed and performed. Such commissioners shall be appointed by nomination by the mayor and confirmation by the board of mayor and aldermen. One shall be appointed for one year, one for two years, and one for three years, so that one shall go out of office annually at the same time at which the term of office of mayor expires. When the term of any commissioner expires, a new appointment shall be made in the same manner for the term of three years. When a vacancy occurs in any manner, an appointment shall be made for the balance of the term. (Ib., Section 4.)

### **Time for Completion of Work.**

SECTION 24. The time allowed by law to said company for the completion of its work is hereby extended two years from the passage of this Act. (Ib., Section 5.)

**ORDINANCES.****Contract and Consent.**

SECTION 1. The Portland Water Company is authorized to lay down in and through the streets of the City of Portland, and to take up and repair all such pipes, aqueducts and fixtures as may be necessary for the objects of their incorporation, subject to all the requirements of their charter and the additional Act approved February 14, 1868, and to the conditions of the following agreement, which is hereby incorporated into this ordinance as a part thereof, and as a condition of the consent hereby given.

This memorandum of an agreement made and entered into at Portland, this twenty-eighth day of February, A. D. 1868, by and between the City of Portland, of the first part, and the Portland Water Company, a corporation established and organized under the laws of the State of Maine, party of the second part, witnesseth:

That in consideration that the City of Portland doth hereby consent that the said Portland Water Company may lay down its mains and pipes in the City of Portland, subject to all the conditions and limitations and liabilities imposed in the charter of said company, which are as follows, viz.:

**Company Authorized to Lay Down, Take up and Repair Pipes, Etc.**

I. The said company are authorized to lay down in and through the streets of said city and to take up and repair all such pipes, aqueducts, and fixtures as may be necessary for the objects of their incorporation, the consent of the city council being given thereto under the following restrictions and regulations, and subject to the following agreements:

**Company to Indemnify City for Damages Paid — Manner in Which Work in Streets Shall Be Done.**

II. Said company shall be liable in all cases to repay to the city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up or displacement of any street by said company, whatever, with or without the consent of the city council, together with counsel fees and other expenses incurred by said city in defending any suit to recover damages as aforesaid, with the interest on the same, to be recovered in an action for money paid to the use of said company; and

whenever the company shall lay down any pipes or aqueducts in any streets or make any alteration or repair in their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable, and shall at their own expense, without unnecessary delay, cause the earth and pavement removed by them to be replaced in proper condition; they will not in any case obstruct and impair the use of any private or public drain, common sewer or reservoir or gas pipe, but said company shall have the right to cross, or when necessary, to change the direction of any private drain in such manner as not to obstruct or impair the use thereof; being liable for any injury occasioned by any such crossing or alteration to the owner thereof, or any other person injured, in an action on the case.

#### **Covenant and Agreement of Company with City.**

III. The said company on its part doth hereby covenant and agree with said city as follows:

#### **Company to Furnish Water for Extinguishment of Fires and Other Municipal Purposes — Service Pipes to Be Laid at Expense of the City — Public Fountains.**

(1.) Said corporation shall furnish at all times to the City of Portland, without charge to the city, for use in public buildings and school-houses of the city, and for extinguishment of fires and other strictly municipal purposes, such amount and volume of water as may be needful therefor; the necessary service pipes and hydrants for distribution thereof for the purposes aforesaid being furnished, laid and connected with the pipes of this company at the expense of the city, and will also supply, upon the same conditions, free from charge to the city, the water for three public fountains, the regulation of the supply of water from the fountains to be under the joint control of the water commissioners of the city, and the president of the company.

#### **Mains.**

(2.) The water shall be introduced into the city from Sebago lake by a twenty-inch hydraulic main, so as to supply the hydrants, within two years from January 1, A. D. 1868.

#### **Reservoirs.**

(3.) A reservoir or reservoirs shall be constructed on Bramhall or Munjoy hills, of the capacity of sixteen million gallons, and the higher elevations on Bramhall and Munjoy hills shall be supplied by a stand-pipe or by gravitation directly from the mains, in a manner satisfactory

to the engineer of the city. The capacity of the reservoir shall be increased from time to time when necessary to meet the requirements of increased consumption.

### **Distributing Pipes.**

(4.) For city distribution, in addition to the twenty-inch mains, there shall not be less than five thousand feet of sixteen-inch pipe, five thousand feet of twelve-inch pipe, five thousand feet of ten-inch pipe, ten thousand feet of eight-inch pipe, forty thousand feet of six-inch pipe, and ten thousand feet of four-inch pipe.

### **Company Shall Lay Pipes When Required by City Council.**

(5.) In the event of reasonable ground of complaint of want of supply to more sparsely populated portions of the city, the city council shall decide upon the feasibility and necessity, and the company shall lay its mains wherever the city council shall decide it reasonable to require it under all the circumstances of the case.

### **Rates Charged.**

(6.) The rate charged to the water takers shall be reasonable as compared with the rates in other cities, with due consideration to the cost and income of the works; and in case of excessive or exorbitant rates, shall be liable to correction by the Supreme Judicial Court, under the equity powers conferred on the court by the Act of February 14, 1868, and for manufactories and other similar large consumers the maximum rates shall be fixed by the city and the company, and in case of their disagreement, by the three commissioners appointed by the Supreme Judicial Court.

### **Works, How to Be Constructed.**

IV. The works shall be constructed under the supervision of an engineer appointed by the city, who shall confer with the engineer of the company as the work progresses, and in case of disagreement a third engineer shall be selected, whose decision shall be final.

In witness whereof, the said Portland Water Company hath hereto, by its president, thereto duly authorized, affixed the name and seal of said company, the assent of said city being given in the ordinance in which this agreement is incorporated.

THE PORTLAND WATER COMPANY, } Corporated seal  
by G. F. SHEPLEY, *President.* } of the Company.

Approved March 3, 1868. AUG. E. STEVENS, *Mayor.*

**Regulations of Portland Water Company — Permits.**

SECTION 2. The following regulations and restrictions are prescribed and established for the laying down, taking up, replacing and repairing all pipes, aqueducts and fixtures by the Portland Water Company, in and through the streets of the city, pursuant to the provisions of Section 9 of the charter of said company, approved February 23, 1866.

Said company, before making any excavation, obstruction, or displacement in any street of the city, for the purpose of laying down, taking up, replacing or repairing any water pipes, aqueducts, or fixtures, shall first obtain written permission to do so from the commissioner on streets. Applications for such permits shall be made in writing, and shall specify the street or streets in which the work is intended to be done, and the points of commencement and termination of the same. Said permits shall not be valid unless countersigned by the mayor who shall specify on which side of the street the pipe is to be laid. When work is completed, said company shall give notice thereof in writing to the commissioner of public works, who shall proceed immediately to examine the manner in which said work has been done, and if the same has been done to his satisfaction, he shall certify the fact to the company; otherwise he shall notify the company what further repairs are required, and said company shall thereupon thoroughly and completely repair the same to the satisfaction of said commissioner of public works.

**When Streets Shall Be Broken into, Etc.**

SECTION 3. No street or sidewalk, or any part thereof, shall be dug up or broken into, for the purpose of laying service pipe, between the first day of December and the fifteenth day of April of each year, without the permission of the mayor and aldermen, in writing, under a penalty of twenty dollars, and a further penalty of twenty dollars for each and every day or part of a day that the work is in progress. Nor shall the streets nor any part thereof be dug up or broken into for the laying of main pipes, between the first day of November and the first day of May in each year, under a penalty of twenty dollars for each offence, and a further penalty of twenty dollars for every day or part of a day that the work shall be in progress, or the street remain broken as aforesaid. Nor shall any street or any part thereof be dug up or broken into before the water pipes are prepared and placed in the vicinity ready to be laid down.

**Damages.**

SECTION 4. Said company shall be liable for all damages occasioned by the digging up and opening any street, or obstructions therein, by said company, as follows, viz.: For all or any such works done before the first day of November, they shall be liable for all damages occasioned thereby, for the space of sixty days from and after the approval certified as aforesaid by said commissioner, and for all or any such works done after said first day of November, they shall be liable until the fifteenth day of the June next following of each year.

**Control of Commissioner of Public Works.**

SECTION 5. All said work shall, during its progress, be subject to the control of said commissioner of public works; and said company, its servants, contractors and agents, shall strictly observe all directions given by him for the protection and convenience of the public. All excavations and obstructions made in any street by said company shall be well railed in and lighted after dark, so as to protect all persons from damage and accident thereby.

**When Work to Be Done.**

SECTION 6. Whenever any street, or any part thereof, is taken up for purposes aforesaid, said company shall perform the work proposed to be done, with all convenient despatch, and as soon as the same is done they shall repair such street and put the same in as good condition as it was in before such taking up, and shall cause all surplus earth, stones, materials, and rubbish to be immediately removed from the street; and whenever such street, or any part thereof, or any pavement thereon, shall thereafter settle or become out of repair by reason of the works aforesaid, the said company shall thoroughly and completely repair the same, to the satisfaction of said commissioner of public works. In case said company refuse or neglect to repair the same, after one day's notice therefor by said commissioner, he shall proceed to repair the same at the expense of said company.

**Obstructions Deemed Nuisances.**

SECTION 7. Any obstruction, taking up, or displacement of any portion of a street contrary to these regulations, shall be considered, and is hereby declared to be a nuisance.



**When Pipes Relaid at Expense of Company.**

SECTION 8. Whenever any of said pipes, in laying them down, shall come in contact or interfere with any public drain or sewer, said pipes shall be laid over or under such drain or sewer unless in the opinion of the commissioner of public works, it shall be necessary to change the direction of such drain or sewer, in which case the same shall be done by said company at their expense, under the direction and to the satisfaction of said commissioner.

**Penalty for Injuring Property of the Company -- Polluting Water Forbidden.**

SECTION 9. No person, within the limits of the City of Portland, shall wilfully or maliciously destroy or injure any dam, reservoir, aqueduct, pipe, hydrant, or other property held, owned, or used by said company for the purpose of which said company was chartered, or shall throw or deposit, or cause to be thrown or deposited, in any reservoir, fountain, or pipe, held, owned, used by, or connected with the works of said company, or used in supplying the city or the citizens of Portland with water, any animal, vegetable, or mineral substance, or shall otherwise corrupt the water therein, or render the same impure. Whoever violates any of the provisions of this section shall be fined not exceeding one hundred dollars for each offence. (R. S., Chapter 127, Section 4, and P. L., 1891, Chapter 82.)

(For contracts for hydrants see Vol. 30, page 249 of City Records, and Vol. 3, page 27 of Deering Records.)

## **CHAPTER 101.**

# **WATERING TROUGHS, WELLS AND FOUNTAINS.**

**Statute.**

### **Watering Troughs, Abatement for — Drinking Fountains.**

SECTION 1. A town, at its annual meeting, may authorize its assessors to abate three dollars from the tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two and a half feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in a surveyor's district claim to furnish it, the municipal officers shall decide where it shall be located. Such officers may establish and maintain such public drinking troughs, wells and fountains within the public highways, squares and commons of their respective towns, as in their judgment the public necessity and convenience require; and towns may raise and appropriate money to defray the expense thereof. (R. S. Chapter 18, Section 71.)

## **CHAPTER 102.**

# **WEIGHERS AND GAUGERS.**

### **ORDINANCES.**

#### **One or More Weighers and Gaugers to Be Appointed — To Be Sworn.**

SECTION 1. There shall annually be elected by the city council, in the month of December, one or more city weighers and gaugers, who shall be sworn to the faithful performance of the duties of said office, and who shall continue in office until removed, or until a successor is elected and qualified.

#### **Duties.**

SECTION 2. It shall be the duty of said weighers and gaugers when thereto requested by the owner, to weigh or gauge, as the case may be, the contents or capacity of any pipe, hogshead, tierce, barrel, cask, box and other vessel or article, and mark the contents and tare, and outs, as the case may be, and the initials of his name and office on each such vessel or article he shall so weigh or gauge.

#### **Fees.**

SECTION 3. Said weigher and gauger shall be entitled to charge and receive in full for his services aforesaid, the following fees for weighing, viz.: seventeen cents for each pipe or hogshead, twelve cents for each tierce or box, eight cents for each barrel, twenty cents per ton for other articles, and the following fees for gauging, viz.: ten cents for each pipe or hogshead, eight cents for each tierce, four cents for each barrel or cask, and three cents for ascertaining and marking the outs of each cask, when the same is not gauged at the same time.

#### **Weighers and Gaugers Shall Pay for Use of City Scales.**

SECTION 4. Weighers and gaugers shall pay to the city treasurer, to the use of the city, as compensation for the use of the city scales,

one and a half cents for each pipe or hogshead, one cent for each tierce or box, one-half cent for each barrel, and two cents per ton for all other articles weighed with said scales.

**Persons Not Authorized Acting — Penalty.**

SECTION 5. No person, not duly authorized as city weigher and gauger, shall exercise that office by weighing or gauging any cargo or parts of cargo of any foreign merchandise, requiring a city weigher or gauger, or shall exercise or perform the duties of weigher or gauger in any manner for fees or hire. Whoever violates any of the provisions of this section shall be fined not exceeding thirty dollars for each offence.

**Gaugers to Use Calipers.**

SECTION 6. Said weighers and gaugers, in ascertaining the contents or capacity of any hogshead of molasses, shall use caliper compasses, or calipers, so called.

## CHAPTER 103.

# WEIGHTS AND MEASURES.

### Statutes.

#### **Town Seal and Standard of Beams, Weights and Measures to Be Kept by Treasurers, Etc.**

SECTION 1. The treasurers of towns, at the expense thereof, shall constantly keep a town seal, and, as town standards, a complete set of beams, weights, and copper and pewter measures, conformable to the State standards, except that the bushel measure, and the half bushel, peck and half peck measures may be of wood instead of copper or pewter, but of the same dimensions, and except also a nest of troy weights other than those from the lowest denomination to eight ounces; they shall cause all beams, weights and measures, belonging to their towns, to be proved and sealed by the State or county standards once in ten years, from July 1, 1840; and for every neglect of such duty they forfeit one hundred dollars, half to the town and half to the prosecutor. (R. S., Chapter 43, Section 4.)

#### **Appointment of Sealers, Etc.**

SECTION 2. The municipal officers of each town shall annually appoint a sealer of weights and measures therein, removable at pleasure, and may fill vacancies; for each month's neglect of this duty they severally forfeit ten dollars, to be appropriated as in the preceding section. Any city may purchase and keep for use scales for weighing hay and other articles, appoint weighers and fix their fees, to be paid by the purchaser. (Ib., Section 5.) 37 Me. 88, 68 Me. 470.

#### **Penalty for Sealer Not Accepting Office, Etc.**

SECTION 3. Whoever, so appointed and notified thereof, refuses for seven days to accept the office and be sworn, forfeits five dollars, half to the town and half to the prosecutor; when sworn he shall receive the standards and seal from the treasurer, giving a receipt therefor, describing them and their condition, and therein engaging to re-deliver

them at the expiration of his office in like good order; and he shall be accountable for their due preservation while in his possession. (Ib., Section 6.) 68 Me. 470.

**Duty of Town Sealer — Penalty for Neglect — How Appropriated.**

SECTION 4. Every such sealer shall annually, in the month of May, post notices in different parts of his town, stating the times and places at which he will attend to the proof and sealing of weights and measures; shall deface or destroy all weights and measures that are not or cannot by him be made conformable to the standard; shall visit the houses of innholders, the warehouses and stores of merchants, and the dwelling houses of such other inhabitants as neglect to send to him their weights and measures, and there prove and seal the same; and every sealer neglecting any duty herein required of him, and every person neglecting or refusing to have his weights and measures proved and sealed as aforesaid, forfeits ten dollars, half to the town and half to the prosecutor. (Ib., Section 7.) 106 Mass. 270, 109 Mass. 220. See Section 8.

**What Scales May Be Used, Etc.**

SECTION 5. In all cases of weighing, the vibrating steelyard invented by Benjamin Dearborn, or said steelyard improved by Samuel Hills or the Fairbank's scale may be used; but before being offered for sale, or used, each beam and the poises thereof shall be sealed by a public sealer of weights and measures. (Ib., Section 8.) 68 Me. 449, 470.

**Measures for Articles Sold by Heaped Measure Shall Be Conformable to Standard.**

SECTION 6. All measures, by which fruit and other things, usually sold by heaped measures are sold, shall be conformable in capacity and breadth to the public standard; and whoever otherwise sells and exposes for sale such fruit or other thing, of any goods or commodities whatever by any other beams, weights or measures than those proved and sealed as aforesaid, forfeits for each offence not less than one dollar nor more than ten dollars; half to the town, and half to the sealer or prosecutor. (Ib., Section 9.) 106 Mass. 270, 109 Mass. 220.

**Twenty-Five Pounds Shall Be a Quarter, Etc.**

SECTION 7. Such articles as are sold or exchanged in any market or town in the State by gross or avoirdupois weight shall be sold or

exchanged as follows: twenty-five avoirdupois pounds constitute one-quarter; four quarters, one hundred; and twenty hundreds, one ton; and all other articles, usually sold by tale, shall be sold by decimal hundred. (Ib., Section 10.)

**Sealers to Give Notice of Times and Places for Sealing Weights and Measures.**

SECTION 8. The sealers of weights and measures in the several cities and towns shall, annually, give public notice by advertisement, or by posting in one or more public places in their respective cities and towns notices to all inhabitants or persons having usual places of business therein, and who use weights, measures or balances for the purpose of selling any goods, wares, merchandise or other commodities or for public weighing to bring in their weights, measures and balances to be adjusted and sealed. Such sealers shall attend in one or more convenient places and shall adjust, seal and record all weights, measures and balances so brought in. (P. L., 1899, Chapter 58, Section 1.)

**Sealers Shall Visit Persons Who Neglect to Comply.**

SECTION 9. After giving said notice the said sealers shall go to the houses, stores and shops of persons who neglect to comply therewith, and having entered the same, with the assent of the occupants thereof, shall adjust and seal their weights, measures and balances. (Ib., Section 2.)

**Sealers to Inspect Stationary Scales Once Each Year.**

SECTION 10. Said sealers shall go once a year and oftener, if necessary, to every hay and coal scale, to every platform balance within their respective cities and towns that cannot be easily or conveniently removed, and shall test the accuracy of and adjust and seal the same. (Ib., Section 3.)

**All Scales, Weights and Measures May Be Tested Any Time.**

SECTION 11. All persons using any scales, weights or measures for the purpose of buying or selling any commodity may, when they desire it, have the same tested and sealed by the sealers of weights and measures at the office of any of said sealers. (Ib., Section 4.)

**If Weights, Etc., Cannot Be Sealed, May Be Marked.**

SECTION 12. In case a sealer of weights and measures cannot seal any weights, measures and balances in the manner before provided, he

may mark them with a stencil, or by other suitable means, so as to show that they have been inspected; but he shall in no case seal or mark as correct any weights, measures or balances which do not conform to the standards. If such weights, measures or balances can be readily adjusted by such means as he has at hand, he may adjust and seal them; but if they cannot be readily adjusted, he shall affix to such weights, measures or balances a notice, forbidding their use until he is satisfied that they have been so adjusted as to conform to the standards; and whoever removes said notice without consent of the officer affixing the same, shall for each offence forfeit a sum not exceeding fifty dollars, one-half to the use of the city or town and one-half to the use of the complainant. (Ib., Section 5.)

### **Towns to Furnish Appliances for Testing.**

SECTION 13. A sealer when visiting the place of business of any person for the purpose of testing any weights, measures or balances, may use for that purpose such weights, measures or balances as he can conveniently carry with him, and each city and town shall furnish its sealer with one or more duplicate sets of weights, measures and balances, which shall at all times be kept to conform to the standards furnished by the State, and all weights, measures and balances so sealed shall be deemed to be legally sealed the same as if tested and sealed with the standard weights, measures and balances. (Ib., Section 6.)

### **False Weights, Etc., to Be Seized and Used as Instruments of Evidence.**

SECTION 14. A sealer of weights and measures may seize without a warrant such weights, measures or balances as may be necessary to be used in cases of violation of the law relating to the sealing of weights and measures, such weights, measures or balances to be returned to the owners or forfeited as the court may direct. (Ib., Section 7.)

### **Penalty for Using False Weights, Etc., after Inspection.**

SECTION 15. When a complaint is made to a sealer of weights and measures by any person that he has reasonable cause to believe or when such sealer himself has reasonable cause to believe that a weight, measure or balance used in the sale of any commodity within his city or town is incorrect, the said sealer shall go to the place where such weight, measure or balance is and shall test the same, and mark it according to the result of the test applied thereto; and if the same is incorrect and



cannot be adjusted, the said sealer shall attach a notice thereto, certifying that fact, and forbidding the use thereof until it has been made to conform to the authorized standard. Any person using a weight, measure or balance after a sealer has demanded permission to test the same, and has been refused such permission, shall be liable to a penalty of not less than ten nor more than one hundred dollars. (Ib., Section 8.)

### **Incorrect Weights, Etc., to Be Stamped "Condemned."**

SECTION 16. All weights, measures and balances that cannot be made to conform to the standard shall be stamped "condemned" or "CD" by the sealer, and no person shall thereafter use the same under the penalties provided in the case of the use of false weights and measures. (Ib., Section 9.)

### **Penalty for Using False Weights, Etc.**

SECTION 17. If a person knowingly uses a false weight, measure, scale, balance or beam, or after a weight, measure, scale, balance or beam has been adjusted and sealed, alters it so that it does not conform to the public standard and fraudulently makes use of it, he shall forfeit for each offence fifty dollars, one-half to the use of the city or town and one-half to the use of the complainant; and every sealer who has reasonable cause to believe that a weight, measure, scale, balance or beam has been altered since it was last adjusted and sealed shall enter the premises in which it is kept or used and shall examine the same. (Ib., Section 10.)

### **Penalty for Using Weights, Etc., Which Have Not Been Sealed.**

SECTION 18. Whoever sells by any other weights, measures, scales, beams or balances than those which have been sealed as before provided, shall forfeit a sum not exceeding twenty dollars for each offence, and when by the custom of trade such weights, measures, scales, beams or balances are provided by the buyer, he shall, if he purchases by any other, be subject to a like penalty to be recovered by an action of tort to the use of the complainant. (Ib., Section 11.)

### **Fees of Sealers for Testing.**

SECTION 19. The fees of sealers of weights and measures, for testing and adjusting scales, weights and measures by the town standard, to be paid for by the persons for whom the service is rendered, are as

follows: for testing railroad track scales of forty thousand pounds' capacity and upwards, two dollars; elevator scales of twenty thousand pounds' capacity and upwards, one dollar and fifty cents; platform scales of five thousand pounds' capacity and upwards, one dollar; dormant scales of less than five thousand pounds' capacity, fifty cents; dormant beef track scales, fifty cents; platform scales of less than five thousand pounds' capacity, fifty cents; beam scales of over one thousand pounds' capacity, fifty cents; platform scales of less than one thousand pounds' capacity, twenty-five cents; platform counter scales, twenty-five cents; counter balance or trip scales, ten cents; spring balance scales, fifteen cents; weights, each, three cents; measures, wet and dry, each, three cents; yard sticks, each, five cents; coal baskets, each, ten cents; milk cans, large size, five cents each; milk cans, small size, three cents each; milk bottles, three cents each; for adjusting or repairing any scale, a fair and reasonable compensation; for adjusting weights, when either light or heavy, not to exceed ten cents each; for adjusting measures, wet or dry, when either large or small, not to exceed ten cents each; for adjusting yard sticks, not to exceed five cents each; for adjusting any weight or measure not mentioned above, a fair and reasonable compensation. (Ib., Section 12.)

#### **Sealer May Be Paid Salary—Fees to Be Paid to City Treasurer.**

SECTION 20. The city council of a city may by ordinance, and a town may by By-law, provide that the sealer of weights and measures for their city or town shall be paid by a salary, and that he shall account for and pay into the treasury of the city or town the fees received by him by virtue of his office; and where such salary is paid no fees shall be charged for services rendered under Section 1. (Ib., Section 13.)

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#### **ORDINANCE.**

#### **City Council to Fix Salary of Sealer of Weights and Measures.**

SECTION 1. The city council shall annually fix, establish and determine the salary of the sealer of weights and measures.

## **CHAPTER 104.**

# **WEIGHER OF HARD COAL.**

### **Statutes.**

#### **Coal to Be Sold by Weight, Etc.**

SECTION 1. Anthracite, bituminous or other mineral coal shall be sold by weight; and two thousand pounds thereof are a ton. (R. S., Chapter 41, Section 11.)

#### **Weighers of Coal to Be Appointed and Sworn.**

SECTION 2. The municipal officers of towns shall annually appoint weighers of such coal, who shall be sworn, and receive such fees as said officers may establish to be paid by the buyer. (Ib., Section 12.)

#### **Coal to Be Weighed by Sworn Weigher before Sale, When Not Sold by Cargo.**

SECTION 3. Unless the coal is sold by the cargo, the seller shall, on request of the purchaser, cause it to be weighed by a sworn weigher, who shall make a certificate of the weight; and he shall deliver such certificate to the buyer before commencing a suit against him for the price of such coal. (Ib., Section 13.) 65 Me. 138, 68 Me. 268.

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### **ORDINANCES.**

#### **Weigher of Coal to Be Chosen.**

SECTION 1. There shall be chosen, annually, by the city council in convention, suitable persons as weighers of hard coal, who shall be sworn to the faithful discharge of the duties of said office, and who shall be removable by vote of the city council; and in case of a vacancy in said office, the city council shall choose a suitable person to fill the same.

**Duties.**

SECTION 2. It shall be the duty of the weigher of hard coal, when thereto requested, carefully to weigh or superintend the weighing of hard coal sold in the city, and deliver to the driver or person taking away such coal, for each load he may weigh or superintend, as aforesaid, a ticket by him signed, certifying the quantity such load contains, and the names of seller and purchaser; and they shall keep offices in some convenient place in the vicinity of the principal coal yards in the city, where they can be found for the performance of the duties of his office.

**To Examine and Prove Scales Used by Him.**

SECTION 3. Weighers of hard coal shall, from time to time, as often as once a month, carefully examine, try and prove all scales used by them or under their superintendence for weighing hard coal; and if upon any examination and trial, it shall be found that such scales are not conformable to the legal standard, they shall give immediate notice thereof, in writing, to the owner or keeper of said scales, therein requesting him to have the same regulated and sealed forthwith.

**To Give Public Notice of Scales Not Sealed.**

SECTION 4. In case said owner or keeper shall refuse or neglect to have the same tried, proved and sealed by the public sealer of weights and measures, for the space of twenty-four hours after such notice, it shall be the duty of said weigher forthwith to give public notice thereof, in two of the city daily papers, published in this city.

**Not to Use Scales unless Sealed — Penalty.**

SECTION 5. Said weighers are hereby forbidden from using said scales, or certifying the weight of coal weighed therewith, until the same shall have been tried, proved and sealed as aforesaid; and for any neglect of duty aforesaid, or violations of the provisions of this ordinance, said weighers shall forfeit and pay not less than two dollars for each load of coal they shall weigh therewith, until the same shall be sealed as aforesaid, one-half of said penalty to enure to the prosecutor, and the other half to the city.

**Penalty for Dealer in Coal Refusing Weigher to Prove His Scales.**

SECTION 6. If any dealer in hard coal in this city, after being requested by any person purchasing coal of him, shall refuse permis-

sion to said weigher to weigh said coal upon his scales, he shall forfeit and pay five dollars for each time he refuses such permission to said weigher, one-half thereof to the city and the other half to the complainant.

**Compensation.**

SECTION 7. Said weighers of hard coal shall receive such fees for their services as shall be from time to time established by the mayor and aldermen, to be paid by the person requesting their services.

## **CHAPTER 105.**

# **WEIGHER OF PLASTER.**

### **ORDINANCES.**

#### **Weigher of Plaster to Be Elected.**

SECTION 1. There shall annually be elected, by the city council, a suitable person as weigher of plaster, who shall be sworn to the faithful discharge of the duties of his office.

#### **Compensation.**

SECTION 2. The weigher of plaster shall receive for and in full compensation for weighing plaster, seven cents per ton, to be paid by the purchaser for whom the services are performed.

#### **City to Provide Scales.**

SECTION 3. Scales suitable for weighing plaster shall be provided by the city, for the use of which, the weigher of plaster shall pay the city treasurer one-seventh part of all the moneys received by him for weighing.

#### **Bonds to Be Given.**

SECTION 4. The weigher of plaster shall give a bond in the sum of one hundred dollars, to be approved by the mayor and aldermen, for the faithful performance of his duty, and for the payment of such sums as shall be due to the city for the use of the scales.

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## **WHARVES.**

(See title, Harbor of Portland, page 365.)

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## **WHISTLES.**

(See page 497.)

## **CHAPTER 106.**

# **WOOD, BARK AND CHARCOAL.**

### **Statutes.**

#### **Dimensions of a Cord of Wood.**

SECTION 1. Towns may, by ordinance, regulate the measure and sale of wood, coal and bark therein, and the location of teams hauling the same, and enforce it by reasonable penalties. All cord wood exposed to sale shall be four feet long, including half the scarf, and well and closely laid together; a cord of wood or bark shall measure eight feet in length, four feet in width, and four feet in height, or otherwise contain one hundred and twenty-eight cubic feet; and the measurer shall make due allowance for refuse or defective wood, and bad stowage. (R. S., Chapter 41, Section 1.) 14 Me. 406, 36 Me. 370.

#### **Penalty for Selling Wood or Bark before Survey.**

SECTION 2. If any firewood or bark, brought into any town by land, is sold and delivered, unless otherwise agreed to by the purchaser, before it is measured by a sworn measurer, and a ticket signed by him and given to the driver, stating the quantity that the load contains, the name of the driver, and the town in which he resides, such wood or bark is forfeited, and may be libeled and disposed of according to law. (Ib., Section 2.) 82 Me. 318, 574.

#### **How Cord Wood Brought by Water Shall Be Measured, Etc.**

SECTION 3. All cord wood, brought by water into any town for sale, shall be corded on the wharf or land, on which it is landed, in ranges, making up in height what is wanting in length; then it shall be so measured and a ticket given to the purchaser, who shall pay the stated fees; and no such wood shall be carried away by any wharfinger or carter before it has been so measured, under a penalty of one dollar for every load. (Ib., Section 3.)

**Ticket Stating Quantity and Name of Driver Required, Etc.**

SECTION 4. Persons carrying any firewood from a wharf or landing for sale, shall be furnished by the owner or seller with a ticket, stating the quantity and the name of the driver; and if such firewood is carried away without such ticket, or any driver refuses to exhibit such ticket to any sworn measurer on demand, or does not consent to have the same measured, when, in the opinion of the measurer the ticket certifies a greater quantity of wood than the load contains, such wood shall be forfeited, and may be seized and libeled by said measurer, according to law. (Ib., Section 4.)

**Penalty for Fraudulent Stowage.**

SECTION 5. When any wood, bark or charcoal, sold by the cord, foot or load, is so stowed as to prevent the surveyors from examining the middle of the load, and it appears on delivery that it was stowed with a fraudulent intent of obtaining payment for a greater quantity than there was in fact, the seller or owner thereof forfeits ten dollars to the county. (Ib., Section 5.)

**How Charcoal May Be Measured and Sold.**

SECTION 6. Charcoal brought into town for sale, may be measured and sold by the cord or foot, estimating the cord at ninety-six bushels, when the purchaser and seller may agree to the same; and the measurers before named shall be measurers of charcoal also. (Ib., Section 6.)

**Coal Baskets to Be Sealed -- Dimensions.**

SECTION 7. All baskets for measuring charcoal brought into a town for sale, shall be sealed by the sealer of the town where the person using them usually resides, and shall contain two bushels and be of the following dimensions, viz.: nineteen inches in breadth in every part, and seventeen inches and a half deep, measuring from the top of the basket to the highest part of the bottom; and in measuring charcoal for sale the basket shall be well heaped. (Ib., Section 7.)

**Penalty.**

SECTION 8. Whoever measures charcoal for sale, in any basket of less dimensions, or not sealed, forfeits for each offence five dollars. (Ib., Section 8.)



**Seizure of Unlawful Baskets.**

SECTION 9. The municipal officers of towns may appoint some suitable person to seize and secure all the baskets used for measuring coal, not according to the provisions hereof. (Ib., Section 9.)

**Penalty for Refusing to Give Certificate, Etc.**

SECTION 10. Any measurer of wood, bark, or charcoal, who neglects or refuses to give to the owner or purchaser a certificate of the contents of a load, forfeits five dollars for each offence; and all the penalties hereinbefore provided, may be recovered by action of debt or complaint, half to the town where the offence is committed, and half to the prosecutor. (Ib., Section 10.)

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**ORDINANCES.****Measurers of Firewood and Bark to Be Chosen — To Be Sworn — Vacancies To Be Filled.**

SECTION 1. There shall be chosen annually by the city council in convention, two or more measurers of firewood and bark, brought into the city for sale, who shall be sworn to the faithful performance of the duties of their office, and shall hold their office during the municipal year, and until others are appointed in their stead, unless sooner removed by vote of the city council. In case of a vacancy in said office by resignation, removal or otherwise, the city council shall proceed to fill the same by a new election for the residue of the year.

**Duties of Measurers — To Give Tickets Certifying Measure, Etc. — To Keep Record of Tickets Issued — To Make Annual Report to City Council.**

SECTION 2. It shall be the duty of each measurer carefully and accurately to measure all firewood and bark which he may be requested to measure in his branch of survey, on payment of the fees allowed for such service, and deliver to the driver or person having the care of the wood or bark, a ticket under his hand for each load he may measure, certifying in words at length, written in ink, the quantity the load contains, with the name of the driver, or person having the charge of the wood or bark, and the town in which he resides. Each measurer shall keep an accurate record of all tickets by him issued, in a book to

be by him provided and kept for that purpose, and shall report annually, to the city council, the number of cords of firewood and bark measured by him during the preceding year, and the amount of fees received therefor.

**Teams with Wood or Bark Not to Stand in Street Longer Than Ten Minutes — Cattle Not to Be Fastened to Post, Etc. — Teams Not to Be Fed — Wood Not to Be Unloaded or Piled in Market.**

SECTION 3. No team having firewood or bark for sale, shall be suffered to stand in any street, alley, square, or other public place, for a longer time in any one day than ten minutes, nor shall the driver of any team which has brought firewood or bark as aforesaid, hitch or fasten his cattle to any post, tree or fence, in any street or lane; nor shall any driver of such team feed his cattle, or suffer the same to be fed in the street, alley, square, or other public place; nor shall any person unload or pile any firewood or bark upon or within the wood market, if any.

**Penalties.**

SECTION 4. Every person offending against any of the preceding sections, or unreasonably neglecting to perform any of the duties therein required, shall forfeit and pay, for the use of the city, a sum not less than five dollars for each offence.

**Mayor and Aldermen to Appoint Person to Seize Charcoal Baskets.**

SECTION 5. The mayor and aldermen may annually appoint one or more suitable persons to seize and secure all baskets used for measuring charcoal that shall not be of the dimensions prescribed by the laws of the State, and to prosecute all persons who shall be guilty of a breach of said laws.

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## WORKHOUSES.

(See title, Paupers, page 509.)

## **CHAPTER 107.**

# **YEAR.**

### **ORDINANCE.**

#### **Financial Year — Accounts to Be Made to.**

SECTION 1. The city treasurer shall make up his annual accounts to the first day of January, and the financial year shall begin on the first day of January and end on the last day of December in each year.

(NOTE. The municipal year begins on the second Monday in December. See City Charter.)

# CITY OF PORTLAND.

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IN THE YEAR ONE THOUSAND NINE HUNDRED AND TWO.

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AN ORDINANCE IN RELATION TO THE REVISED ORDINANCES.

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*Be it ordained by the Mayor, Aldermen, and Common Council of the City of Portland, in City Council assembled, as follows:*

## **The Ordinances in This Book Declared to Be the Ordinances of the City.**

SECTION 1. All the ordinances printed and contained in the preceding pages, that is to say, in a certain book prepared and printed under the direction of Arthur K. Hunt, Joseph E. F. Connolly, Edward A. Shaw and William C. Eaton, a committee duly appointed and authorized for that purpose by a vote of the city council of the City of Portland, approved on December 9, 1901, shall be deemed and are declared to be ordinances of the said city, and shall have the force thereof.

## **Repeal of Inconsistent Ordinances.**

SECTION 2. All orders, ordinances and parts of orders and ordinances, inconsistent with any of the preceding ordinances, are hereby repealed.

## **Saving of Rights Accrued, Suits Pending, Etc.**

SECTION 3. The repeal of the preceding section shall not affect any Act done, or any right accruing or accrued, or established, or any suit or proceeding had or commenced in any civil case before the time when such repeal shall take effect, nor any offence committed, nor any penalty or forfeiture incurred, nor any suit or prosecution pending at the time of such repeal, for any offence committed or for the recovery of any penalty or forfeiture incurred, under any of the provisions so repealed, and in all cases where any provisions of the preceding ordinances made are to go into operation at any time hereafter,

the corresponding provisions, if any, of the said repealed ordinances or orders shall continue in force until the said new provisions shall go into operation, subject, however, to any express regulations relating thereto, which may be contained in the preceding ordinances; and no ordinance, order, or part of an ordinance or order which has been heretofore repealed, shall be revived by the repeal in the preceding section.

### **How Copies of Revised Ordinances Shall Be Kept, Etc.**

SECTION 4. All copies of the revised ordinances not otherwise disposed of, shall be deposited with the city messenger, subject to the direction and control of the city council, and shall be on sale at such price as shall be determined by the mayor and aldermen.

### **Copies for City Council.**

SECTION 5. Every member of the city council shall be entitled to one copy of the revised ordinances.

IN BOARD OF MAYOR AND ALDERMEN, }  
July 28, 1902. }

Read twice and passed to be engrossed, and sent down for concurrence.

Attest: EDWIN L. DYER, *Clerk.*

IN COMMON COUNCIL, }  
July 28, 1902. }

Read twice and passed to be engrossed in concurrence.

Attest: ABRAHAM L. T. CUMMINGS, *Clerk.*

IN BOARD OF MAYOR AND ALDERMEN, }  
July 28, 1902. }

Read and passed to be ordained and sent down for concurrence.

Attest: FREDERIC E. BOOTHBY, *Mayor.*

IN COMMON COUNCIL, }  
July 28, 1902. }

Read and passed to be ordained in concurrence.

Attest: ARTHUR CHAPMAN,  
*President of Common Council.*

APPROVED, July 29, 1902.

FREDERIC E. BOOTHBY, *Mayor.*

## APPENDIX.



# RULES AND ORDERS OF THE CITY COUNCIL.

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## **Transmission of Papers.**

SECTION 1. Each board shall transmit to the other, all papers on which joint action may be necessary, and when either board shall non-concur with the action of the other respecting any order, ordinance, or resolution, notice of such non-concurrence shall be given by endorsement on such paper. All papers on their passage between the boards shall be under the signatures of their respective clerks, except ordinances and joint resolutions in their last stage, which shall be signed by the presiding officer.

## **Notice of Proposal to Adjourn.**

SECTION 2. Either board may propose to the other a time to which both boards shall adjourn.

## **Ordinances, Enacting Style of.**

SECTION 3. All By-laws passed by the city council shall be termed "ordinances," and the enacting style shall be: "Be it ordained by the mayor, aldermen and common council of the City of Portland, in city council assembled."

## **Orders and Resolutions.**

SECTION 4. In all votes of command, the form of expression shall be "ordered;" and of opinions, principles, facts or purposes the form shall be "resolved."

## **Titles — Second Reading of Order, Etc. — Objection to.**

SECTION 5. All ordinances and orders shall be prefixed by a title briefly stating the subject matter of the same, and have two several readings before they are finally passed. No ordinance or order imposing penalties, or authorizing the expenditure of money, or authorizing a loan shall have its second reading on the same day, if two members of the upper board or five of the lower board object.



**Ordinances, Etc., to Have Two Readings.**

SECTION 6. No ordinance or resolution shall pass to be engrossed without being twice read. All ordinances of resolutions having been engrossed shall be referred to the committee on engrossed bills. No ordinance shall be enacted, or resolve finally passed, until reported correctly and truly engrossed.

**Expenditures -- Transfers.**

SECTION 7. After the annual order of appropriations shall have been passed, no subsequent expenditures shall be authorized for any purpose, unless provision for the same shall be made by specific transfer from some of the appropriations contained in such annual order, or by expressly creating therefor a city debt. No transfer from any appropriation shall be made, and no city debt shall at any time be created, unless the order authorizing the same shall pass by a vote of two-thirds of the whole number of each branch, voting by yeas and nays.

**Salary of Officers Not to Be Changed.**

SECTION 8. The salary of each subordinate city officer shall be fixed annually by the concurrent action of both boards; and after being once fixed shall not be increased during the time for which he is elected.

**Committee of the Whole — Joint Convention.**

SECTION 9. Either board may propose to the other to meet in joint convention, for the purpose of going into committee of the whole, to consider matters upon which they may desire to have an informal expression of opinion of both boards. The rules of the common council shall be observed in committee of the whole, so far as applicable.

**Committee on Accounts.**

SECTION 10. The committee on accounts shall, as soon as practicable after the first day of each month, procure from the auditor and send to each member of the city council, a statement of the standing of each appropriation, as follows :

Original amount of appropriation, subsequent additions by income account or otherwise, payments the past month, amount paid to date, balance of appropriation on the first day of the month. (See also page 328, Section 1.)

**Joint Standing Committees, How Composed.**

SECTION 11. All joint standing committees of the city council shall consist of two aldermen and three members of the common council, unless otherwise ordered.

**All Acts of Committee Must Be Agreed to in Committee Assembled.**

SECTION 12. No bill shall be approved and no report of any committee shall be made to the city council, unless agreed to in committee assembled.

**Notice of Non-Concurrence.**

SECTION 13. In case of non-concurrence by either board in any matter requiring concurrent action, immediate notice thereof shall be given to the board in which such matter originated.

**Concurrent Matters to Take Precedence.**

SECTION 14. At each session of either board matters requiring concurrent action shall take precedence, and be first considered.

**Suspension of Rules.**

SECTION 15. None of the foregoing rules and orders, nor those relating to the committees of the city council, shall be suspended or repealed unless two-thirds of the members of each board present consent thereto.

**Questions of Order, How Decided.**

SECTION 16. All questions of order not herein provided for shall be decided by the presiding officer, subject to appeal from the chair upon the call of one member in the board of aldermen or two members of the common council or joint convention. Such appeal shall be decided without debate.

**Cushing's Manual Adopted.**

SECTION 17. In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, whether of the board of mayor and aldermen, common council or committee, "Cushing's Manual" shall be taken as authority to decide the course of proceeding.

# RULES AND ORDERS OF THE BOARD OF MAYOR AND ALDERMEN.

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## **Mayor, Duties of.**

SECTION 1. The mayor, or in his absence, the chairman of the board, shall take the chair at the hour to which the board adjourned, and shall call the members to order; and a quorum being present, shall cause the minutes of the preceding meeting to be read. In the absence of the mayor and chairman, the board shall elect a chairman *pro tempore*.

## **Questions of Order—Appeal.**

SECTION 2. He shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the board by motion regularly seconded; and no other business shall be in order till the question on appeal is decided.

## **Yeas and Nays to Be Taken When Vote Is Doubted.**

SECTION 3. He shall declare all votes, but if any member doubts a vote, the chairman shall cause a return of the members voting in the affirmative and in the negative without debate.

## **Mayor to Stand When Stating a Motion.**

SECTION 4. He may read sitting but shall rise to state a motion or put a question.

## **Yeas and Nays to Be Taken When Member Requests.**

SECTION 5. On all questions and motions, whatsoever, the chairman shall take the sense of the board by yeas and nays, provided any member shall so request.

## **Appointments by Mayor to Lay on Table.**

SECTION 6. All appointments made by the mayor, which require confirmation by the board of aldermen, shall lay on the table one week after being transmitted to the board, unless taken therefrom by unanimous consent.

**Questions, How Propounded.**

SECTION 7. The mayor shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature; except in naming sums and fixing times, the largest sum and longest time shall be put first.

**Motions, How Disposed of.**

SECTION 8. After a motion is stated or read by the chairman, it shall be deemed to be in possession of the board, and shall be disposed of by vote.

**Order of Motions.**

SECTION 9. When a question is under debate, the chairman shall receive no motion but to adjourn, lay on the table, to postpone to a day certain, to commit, to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged. A motion to postpone indefinitely shall not be renewed during the same municipal year, and a motion to strike out the enacting clause of an ordinance shall be equivalent to a motion to postpone indefinitely.

**Motions to Adjourn, to Lay on Table, to Take from Table.**

SECTION 10. The chairman shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table shall be decided without debate.

**Reconsideration of Vote.**

SECTION 11. When a vote is passed, it shall be in order for any member to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards, except on papers returned from the mayor; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

**Manner of Speaking.**

SECTION 12. Every member, when about to speak, shall rise and respectfully address the mayor or chairman; confine himself to the question under debate, and avoid personalities. No member shall speak out of his place without leave.

**Member Speaking Not to Be Interrupted.**

SECTION 13. No member speaking shall be interrupted by another, but by a call to order, or to correct a mistake.

**Every Member Present Shall Vote.**

SECTION 14. Every member who shall be present when a question is put shall give his vote unless the board shall excuse him; application to be so excused on any question must be made before the board is divided, or before the calling of the yeas and nays; and such application shall be decided without debate.

**Motions in Writing.**

SECTION 15. Every motion shall be reduced to writing, if the chairman shall so direct, or any member request it.

**Division of Question.**

SECTION 16. Any member may require the division of the question when the sense will admit of it.

**Reports.**

SECTION 17. Reports may be committed and recommitted at the pleasure of the board.

**Motion for Commitment.**

SECTION 18. A motion for commitment, until it is decided, shall preclude all amendments of the main question.

**Doubted Vote, How Counted.**

SECTION 19. When a vote is doubted, the members for and against the question, when called on by the chairman, shall rise and stand until they are counted.

**Committees.**

SECTION 20. The following standing committees of the board shall be appointed, viz.:

Committee on Agency for Sale of Intoxicating Liquors, and Committee on New Buildings, each to consist of three members of the board.

Sanitary Committee, Committee on Police, Committee on Licenses, each to consist of the mayor and two members of the board, or three aldermen.

Committee on State Pensions, to consist of two aldermen.

Committee on Damages for grading streets to be composed of the mayor and the members of the joint committee on public works, on the part of this board.

All committees, unless otherwise provided for shall be appointed by the mayor or chairman.

### **Report of Committees.**

SECTION 21. Committees of the board to whom any matter is specially referred shall be required to report within four weeks, or ask for further time.

### **Duties of City Clerk.**

SECTION 22. The city clerk shall keep minutes of the votes and proceedings of the board of aldermen, board of mayor and aldermen, conventions of the two boards, and notice reports, petitions, memorials, and other papers which are presented.

He shall record at length, in a journal provided with an index, all orders, ordinances, resolutions or reports which are passed or accepted by the board, or in concurrence. He shall draw up and transmit all messages to the board of common council, unless the aldermen otherwise direct.

### **Order of Business.**

SECTION 23. After the completion of all unfinished business of a previous meeting, the mayor, or in his absence the chairman, shall call for the introduction of orders, and any other new business, in regular order, commencing with the aldermen from ward 1, and continuing in regular order.

### **Insane Cases.**

SECTION 24. No person shall be committed to the insane hospital at Augusta unless it be proven to the satisfaction of the board of aldermen that such person has received a copy of the complaint and a summons to appear before the said board and answer to said complaint. Such summons shall state the time and place of the hearing of said complaint and shall be served by the city messenger at least twenty-four hours before the meeting of said board.

**Suspension of Rules.**

SECTION 25. The foregoing rules shall not be dispensed with, unless two-thirds of the members present consent thereto, nor shall any rule or order be amended or repealed, without notice in writing being given at the preceding meeting, nor unless a majority of the board vote thereto.

# **RULES AND ORDERS OF THE COMMON COUNCIL.**

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## **Duties and Powers of the President.**

SECTION 1. The president shall take the chair precisely at the time appointed for the meeting, call the members to order, cause the roll to be called, and, on the appearance of a quorum cause the minutes of the preceding meeting to be read, and proceed to business.

He shall preserve decorum and order, may speak to points of order in preference to other members, but shall not speak to any other question while in the chair.

He shall decide all questions of order subject to an appeal to the council, by motion regularly seconded, and no other business shall be entertained until the question on appeal shall be decided.

He shall declare all votes. If a vote is doubted, the question shall be decided without debate, by members standing in their places until counted.

He shall rise to address the council or to put a question, but may read sitting.

In all cases the president may vote.

## **Committee of the Whole — Chairman.**

SECTION 2. When the council shall determine to go into a committee of the whole, the president shall appoint the member who shall take the chair. He may, at any time, call a member to the chair, but such substitution shall not continue beyond an adjournment.

## **Yeas and Nays, When to Be Called.**

SECTION 3. On all questions and motions whatsoever, the president shall take the sense of the council by yeas and nays, provided one-fifth of the members present shall so require.



**Questions, How Propounded.**

SECTION 4. The president shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature, except that in naming sums and fixing times, the largest sum and the longest time shall be put first.

**Order of Motions.**

SECTION 5. When a question is under debate, no motion shall be received but to adjourn, to lay on the table for the previous question, to postpone to a day certain, to commit, to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged. A motion to postpone indefinitely shall not be renewed during the same session. A motion to strike out the enacting clause of an audience shall be equivalent to a motion to postpone indefinitely.

**Motions to Adjourn and Lay on the Table.**

SECTION 6. A motion to adjourn shall be considered as always in order, except on an immediate repetition; and that motion, and the motion to lay on the table shall be decided without debate.

**Previous Questions, How to Be Stated.**

SECTION 7. Upon the motion for the previous question being made and seconded, the president shall put the question in the following form: "Shall the main question be put now?" And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion by a majority vote, the sense of the council shall be forthwith taken upon all pending amendments, and then upon the main question.

**Debate.**

SECTION 8. No debate shall be allowed on a motion for the previous question; Neither is it susceptible of amendment. All questions of order, arising incidentally thereon, must be decided without discussion, whether appeal be had from the chair or not.

**President to Decide Who Is Entitled to Floor.**

SECTION 9. When two or more members rise to speak at the same time, the president shall name the member who is entitled to the floor.

### **Committees, How Appointed.**

SECTION 10. All committees shall be appointed by the president, unless otherwise provided for.

### **Manner of Speaking.**

SECTION 11. When a member is about to speak he shall rise in his place, and respectfully address the president, confine himself to the question under debate, and avoid personalities.

### **Speaker Not to Be Interrupted.**

SECTION 12. No member speaking shall be interrupted by another, but by a call to order, or to correct a mistake.

### **Members Shall Not Speak More Than Twice.**

SECTION 13. No member shall speak more than twice on one question at the same meeting without leave of the council.

### **Reconsideration.**

SECTION 14. When a vote has passed it shall be in order for any member to move a reconsideration thereof at the same or the succeeding meeting, but not afterwards, except on papers returned from the mayor. If made at the same meeting, a majority of the members present may reconsider, but if not made until the succeeding meeting, the subject shall not be reconsidered unless a majority of the whole council shall vote therefor; and when a motion for reconsideration is decided that vote shall not be reconsidered.

### **Breach of Rules.**

SECTION 15. When any member shall be guilty of a breach of either of the rules or orders of the council, he may, on motion, be required to make satisfaction therefor, and shall not be allowed to vote or speak except by way of excuse, until he has done so.

### **Every Member Shall Vote.**

SECTION 16. Every member present, when a question is put, shall give his vote, unless the council, for special reasons, shall excuse him; application to be so excused must be made before the council is divided, or before the calling of the yeas and nays, and decided without debate.

**Motions in Writing.**

SECTION 17. Every motion shall be reduced to writing, if the president shall so direct.

**Division of Question.**

SECTION 18. Any member may require the division of a question when the sense will admit of it.

**Motion for Commitment.**

SECTION 19. A motion for commitment, until it is decided, shall preclude all amendments of the main question.

**Debate.**

SECTION 20. All questions relating to priority of business to be acted upon shall be decided without debate.

**Order of Seats.**

SECTION 21. The seats shall be occupied in the following order: Members from ward 1, first on the left hand of the president, and members from other wards in regular rotation according to the number of their ward.

**Members Not to Be Called by Name.**

SECTION 22. No member shall call another by name in debate, but may allude to him by an intelligible or respectful designation.

**Reading of Papers — Withdrawal of Members.**

SECTION 23. If the reading of any paper is called for, and any member objects thereto, it shall be decided by the council. No member shall withdraw from the council room without leave, unless there be a quorum left present at the board. Members shall not leave their places on an adjournment until the president has declared the council adjourned.

**Papers to Be Endorsed.**

SECTION 24. All papers addressed to the council shall be presented by the president or a member in his place, endorsed with the name of the member presenting it, and shall be read by the president, clerk or such other person as the president may request; and shall be taken up

in the order in which they are presented, except when the council shall otherwise determine: Provided that any petition, memorial, remonstrance, or other paper of like nature requiring reference to a committee, shall be endorsed upon the back with the first name and the number of the signers and the object of the paper, and may be read by such endorsement unless otherwise ordered.

### **Rules in Committees — Report Progress.**

SECTION 25. The rules of the council shall be observed in committee of the whole, so far as they are applicable. A motion to rise, report progress, and ask leave to sit again, shall be first in order, and be decided without debate.

### **Committee Not to Sit at Certain Times.**

SECTION 26. No committee shall sit during a session of the council without leave.

### **Organization of Committees.**

SECTION 27. All committees chosen by ballot, or consisting of one or more from each ward, shall organize at their first meeting by a choice of chairman, and report the same to the council. In all cases where the president appoints a committee, unless otherwise provided for, the member first named shall be chairman, and in his absence the member next in order, who shall be present, shall be chairman *pro tempore*.

### **Select Committees.**

SECTION 28. All select committees of the council shall consist of three members, unless otherwise ordered.

### **Report of Committee.**

SECTION 29. No report of any committee shall be received unless agreed to in committee assembled.

### **Committee, When to Report.**

SECTION 30. Committees of the council to which any matter is referred shall report thereon within four weeks, or at the next regular meeting.

**Duty of Clerk.**

SECTION 31. The clerk shall keep a minute of the votes and proceedings of the council, and enter the same in a journal provided with an index. He shall record at length all accepted reports of select committees of the council; shall draw up and carry to the board of mayor and aldermen all messages, unless the council shall otherwise direct. He shall cause the members to be notified at the time of the meetings by the messenger. In the absence of the president he shall call the council to order, and preside until a president *pro tempore* is chosen.

**Suspension of Rules.**

SECTION 32. No rules or order of the council shall be suspended unless two-thirds of the members present consent thereto, nor shall any rule or order be altered or repealed without notice of such alteration being given in writing at a preceding meeting or unless a majority of all the members of the council vote therefor.

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## RULES AND ORDERS RELATING TO COMMITTEES OF THE CITY COUNCIL.

SECTION 1. At the commencement of the municipal year the joint standing committees shall be appointed, viz. :

Committee on Accounts, to consist of one alderman and two members of the common council, in accordance with the ordinance. (See Page 328, Section 1.)

Committee on Assessors' Department, to consist of one alderman and two members of the common council.

Committee on Bells and Clocks, to consist of one alderman and three members of the common council. (See Page 201.)

Committee on City Engineers' Department, to consist of one alderman and two members of the common council.

Committee on Electrical Appliances, to consist of the mayor, one alderman, and three members of the common council. (See Page 297, Section 4.)

Committee on Engrossed Bills and Printing, to consist of one alderman and three members of the common council. (See Page 570.)

Committee on Estimates to consist of the mayor, three members of the board of aldermen and six members of the common council, one

member of said committee to be appointed from each ward. Said committee shall lay before the city council, as soon after its organization as may be, an estimate of the amount of money necessary to be raised to meet the requirements of the city for the ensuing year.

Committee on Finance, to consist of the mayor, two aldermen, and three members of the common council, in accordance with the ordinance. (See Page 329, Section 6.)

Committee on Fire Department, to consist of two aldermen and three members of the common council.

Committee on Judicial Proceedings and Claims, to consist of the mayor, two aldermen, and three members of the common council.

Committee on Laying Out New Streets, to consist of the mayor, two aldermen, and three members of the common council, in accordance with the ordinance. (See Page 714, Section 2.)

Committee on Lights, to consist of two aldermen and three members of the common council, in accordance with the ordinance. (See Page 466, Section 1.)

Committee on Mayor's Address, to consist of two aldermen and three members of the common council.

Committee on Public Buildings, to consist of the mayor, one alderman, and three members of the common council, in accordance with the ordinance. (See Page 571, Section 1.)

Committee on Public Instruction, to consist of two aldermen and three members of the common council. (See Page 709, Section 14.)

Committee on Public Works, to consist of the mayor, two aldermen, and two members of the common council. (See Page 581, Section 5.)

Committees on Rules and Orders, to consist of two aldermen and three members of the common council.

Committee on Salaries, to consist of three aldermen and three members of the common council.

Committee on Unimproved Real Estate, to consist of two aldermen and three members of the common council.

### **Chairman of Committees.**

SECTION 2. The mayor shall be *ex officio* chairman of any joint committee of which he is a member,

The members of the board of mayor and aldermen and of the common council, who shall constitute the joint standing committees, shall be chosen or appointed by their respective boards, and the member of the board of aldermen first named on every joint committee (of

which the mayor is not a member) shall be its chairman, and in case of absence or inability the member of the common council first named shall be its chairman, and after these the member of the board of aldermen, after him the member of the common council first in order, shall call meetings of the committee and act as chairman. If the chairman fails to call meeting of any committee a meeting may be called by a majority of said committee.

### **Committee of Conference, Report of.**

SECTION 3. In every case of disagreement between the two branches of the city council, if either board shall request a conference and appoint a committee of conference, the other board shall also appoint a committee to confer; such committee shall, at a convenient time, meet, and state to each other, verbally or in writing, as either shall choose, the reason of their respective boards, for or against the matter in controversy, confer freely thereon, and report to their respective branches. A report, other than disagreement, shall require the assent of a majority of the committee from each board.

### **Reports of Committees, How to Be Made.**

SECTION 4. The reports of all committees, whether by ordinance, resolves or otherwise, shall be made to the board in which the business referred originated; and no report shall be received unless agreed to in the committee actually assembled.

### **Committees and Officers to Report to City Council When Further Appropriation Is Required.**

SECTION 5. In all contracts or expenditures to be made under the authority of the city council, whenever the estimates shall exceed the appropriations especially made therefor, or whenever any committee or officer shall have expended the sum especially appropriated for its use in the order of appropriation for the year, and in either case shall require a further sum, it shall be the duty of such committee or officer having such matter in charge to submit the same to the city council for instructions, before such contract is made, or any expenditures for the object is incurred.

### **Reports of Committees, When to Be Made.**

SECTION 6. It shall be the duty of every committee, to which any subject may be referred, to report thereon within four weeks, or at the next regular meeting.

**Chairman of Committee Not to Approve Bills in Certain Cases.**

SECTION 7. No chairman of any committee shall approve any bill or account against the city, not authorized by the committee in session.

**Approval of Majority of Committee Necessary.**

SECTION 8. The approval in writing of a majority of the members of any and all joint standing committees shall be necessary upon all bills referred to such committee or committees, before the same shall be paid or considered valid.





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